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ABSTRACT

Several years ago the police department of Waterford, Connecticut and the local school administration viewed with great alarm the increasing tendency of school age youth to mistrust and misunderstand the criminal justice system. A program entitled "Freedom and the Law" was developed in response to this concern. The project was designed to meet a number of goals including instructing the students of the Waterford (Connecticut) public school system in police related topics such as safety and law enforcement and to help students better understand the role of the police in modern society. The program is now a formal component of the Waterford public school system's curriculum and is administered cooperatively by the Police Department and the Board of Education. This guide outlines the structure and resource materials for the high school program, which can be adapted for the adult education program. The program contains eight units: (1) Historical Background of Police; (2) The Local Police Department; (3) The Role of the Police in Modern Society; (4) Police Issues; (5) The Constitution and the Bill of Rights; (6) Criminal Law; (7) Juvenile Law; and (8) The Administration of Justice. The appendix contains an attitude survey. (DB)

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Consortium for Law - Related Education

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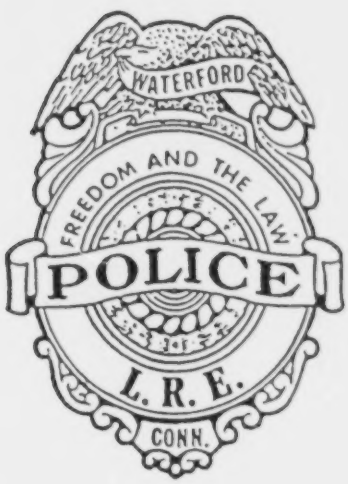

Police - Teacher Partnership Guide

PREFACE

In our rapidly changing society, the role of the police in the community has become a matter of controversy and concern. A crime rate which continually rises in startling proportions combined with the dynamic social changes in recent years have combined to place an enormous demand on local police departments. The way that one local police agency - the Waterford Connecticut Police Department, is responding to this demand is the subject of this paper.

The complexity of issues faced by the police on a daily basis makes it impossible for a department to merely react to the law enforcement needs of the community. Traditionally, police agencies strive to maintain public safety and order by the deployment of uniformed patrol officers throughout the community in an effort to deter criminal activity, and by the investigation of crimes in an effort to apprehend the criminal offenders. These activities are, and should continue to be, primary law enforcement functions. However, since the level of crime in the United States is a function of social and economic conditions, and essentially outside the control of the police, these traditional activities alone will prove to be only a stop-gap measure.

Several years ago it became apparent to the Waterford police administration that if the department is to be truly responsive to the needs of the community, it must become a pro-active agency, actively involved with all aspects of the town. A prime example of the activity that resulted from this outlook is a program that was developed in the Waterford school system called "Freedom and the Law."

Both the police department and the school administration viewed with great alarm the increasing tendency of school age youth to mistrust and misunderstand the Criminal Justice System. This tendency is well demonstrated by the alarming increase in juvenile crime. As an affirmative pro-active response to this undesirable condition, the Board of Education and the Police Department appointed the Waterford Law Enforcement-Education Committee. This committee consisted of a representative from the administrations of each level of the Waterford School System (elementary, jr. high school, and high school), the Director of the Support Services Division of the Police Department, and the Director of the Eastern Connecticut Criminal Justice Planning Agency.

It has been the practice in the Waterford Police Department, as well as most other police departments, for police officers to periodically "drop in" to the schools on an ad hoc basis at the request of individual instructors. The goal of this committee

was to develop a formal curriculum for each level of the school system to be taught on a regular basis by a member of the Waterford Police Department. The committee established the following goals:

1. To instruct the students of the Waterford School System in police related topics such as safety, law enforcement, etc.

2. To effect more positive police-juvenile relations and understanding.

3. To develop in students a better understanding of the role of the police in modern society.

4. To assist students in achieving a clear realization of the consequences of delinquent and criminal behavior.

5. To assist students in comprehending the benefits of their future participation in the Criminal Justice System.

The intent of the program, therefore, is to promote the positive preventive responsibility of law enforcement agencies rather than the mere enforcement of the law through the apprehension process.

As a result of the work of the Law Enforcement Education Committee, "Freedom and the Law" is now a formal component of the Waterford School System's curriculum and is administered cooperatively by the Police Department and the Board of Education. The program has three basic components, one designed for each of the three levels of the school system. This document presents the structure and resource materials for the high school program, which is also adaptable to the Adult Education Program.

A word of caution is offered to the users of this document. The program described herein is not proscriptive in nature. It is not a "how to" manual. Rather, it is a compilation of the resources and a description of the structure that has resulted in a successful program in the Town of Waterford. Those who use this document in the development of their own programs, whether they be police officers or educators, are limited only by their imaginations.

Deputy Chief Murray J. Pendleton
Waterford Police Department

FREEDOM AND THE LAW

PROGRAM STRUCTURE

COURSE DESCRIPTION

An introduction to philosophy and history of law enforcement: review of court systems; application of criminal law. The student will have an understanding and be able to recognize specific criminal acts and their elements; the organization, function and jurisdiction of juvenile agencies, the processing and detention of juveniles, juvenile case disposition, juvenile statutes and court procedures; insight into special problems faced by law enforcement today; and the role of the police in modern times.

COURSE GOALS AND OBJECTIVES

Skills, attitudes and knowledge a student may develop from the course.

1. The student will understand the basic function of law enforcement and gain a more detailed comprehension of the role of the police department and the individual police officer in society.
2. The student will understand the basic elements of criminal law and its application.
3. The student will become acquainted with many of the special enforcement problems faced by the police in modern times.
4. The student will gain an attitude of cooperation and understanding between the student and law enforcement.

COURSE CONTENT

Historical Background of Police — Unit I

A. Early Ages

B. Middle Ages

C. Modern Policing

The Local Police Department — Unit II

(Materials to be provided by the user agency)

The Role of the Police in Modern Society — Unit III

A. Duties of Police

B. Police Technology

C. Police Community Relations

D. Purpose of Law Enforcement

E. Structure of Law Enforcement

Police Issues — Unit IV

A. Public Cooperation

B. Field Inquiry

C. Suspicious Activity

D. TV and the Cops

E. Firearms Policy

F. Intoxication Act

G. High Speed Chase

H. Solving Crime - The Crime Game

The Constitution and the Bill of Rights — Unit V

Criminal Law — Unit VI

A. The Evolution of Law

B. Probable Cause

C. Detention and Arrest

D. Search and Siezure

E. Interrogation

F. Legal Glossary

Juvenile Law — Unit VII

A. Juvenile Court

B. Juvenile Offenders

C. Juvenile Rights

The Administration of Justice — Unit VIII

A. Connecticut Courts

B. The Department of Correction

C. Parole

D. What are Lawyers?

Appendix — Unit IX

A. Attitude Survey

B. Recommended Additional Resources

HISTORY OF POLICING

The beginnings of formal law enforcement activities are clouded within the historical mist of legend. The ancient social order was of a patriarchal nature, with small family groups affiliating with tribes or clans. Tribal customs developed, and informal codes of conduct in conformity with the customs, but laws, as such, did not follow until written records were commonplace.

PRE-ROMAN POLICING

Did the police officer enter history as a club the state held over the people? Or did man always appoint some of his neighbors to keep the peace and blow the whistle on law breakers? The answer is as old as the law itself, and the law stretches back thousands of years to the first time a group of families saw that hunting and fishing produced more results when they banded together and divided the work. Group living gave rise to certain customs everyone was expected to observe. If one member refused to contribute his share to the common store, the community itself applied the necessary force. The leader called some of the tribe to carry out his orders and act as his bodyguard.

When a crime was committed the victim was expected to dole out justice with his own hands or with the help of his family. Crimes against the community were avenged by the whole group, so the early tribal families were a force of "kin police", each acting as his brother's keeper. Dispensing justice was usually a brutal process. If a man stole the game from his neighbor's traps, he could expect to pay for the crime out of his own hide in a pot of boiling oil or a cage of wild beasts. Inevitably, communities that stood behind their members got into blood feuds with other tribes, and when the warfare became unbearable they looked for less violent ways to enforce the law.

An obvious solution was to settle disputes with property instead of physical retaliation. The thief was allowed to contribute goods to the community coffers as a fine for his offense. This was the first instance of civil restitution.

Real policing by a group of citizens began about four thousand years ago when tribal customs first became written law. As tribal chiefs became rulers with more power over larger territories, people began to look to them when disputes had to be settled. The rulers made local customs into codes of conduct, and set out officers to enforce the law over all their lands. The first written law was the "Code of Hammurabi", King of Babylon in 2100 B.C. Hammurabi's Code dealt with legal questions ranging from marriage contracts to the treatment of slaves. Recognizing the government's responsibility for enforcement, he installed officials called "messengers" to carry out the law's command. Other rulers followed suit. In the 6th century Persia, King Darius divided his empire into provinces and appointed governors with troops under their command as tax collectors. Pisistratus, the dictator of Athens staged an attack on his own life to demonstrate his need for bodyguards and afterwards made liberal use of his soldiers to quell any opposition to his absolute tule.

About the time of Christ, the Roman Emperor Augustus chose men from his military legions to form the Praetorian guard to protect the palace and the Urban Cohert to patrol the city. Augustus also established the first civilian police force called the Vigiles of Rome, who gave their name to the citizen vigilante. Although they sometimes kept peace with a heavy hand, they also performed important public services like fire-fighting. But these beginnings were swept away by the Dark Ages.

In the 4th and 5th centuries, the Roman Empire disintegrated in the path of hordes of Germanic invaders. As authority crumbled so did the old patterns of law enforcement.

During the next two hundred years wave after wave of Germanic ships carried these warlike invaders into the old Roman territory of Britian. Many of the foreign tribes settled on the coast or moved inland, each bringing his own laws and customs. The German tribes mixed their blood with the conquered English to form a hearty, independent race called Anglo-Saxons.

ANGLO-SAXON POLICING

We brought up the historical background to the establishment of the Anglo-Saxons. This Anglo-Saxon period is the first of many policing periods that have an effect on the police function through modern times. The term "police" is relatively new. The word was coined sometime around 600 A.D. and was taken from the French word "policer" which meant "powers of the people". The right of the governed to do whatever they think best for the general welfare is known in law as "police power"; while the actual force by which they compel observance of their edicts is known as the "police functions".

It began in the British Isles around the year 600 A.D. and extended to 1066 A.D. At that time the population of England lived in small "Tuns" or villages dotting the land. A "Tun", which became "town", originally was a "vill" or "tithing". A tithing was a civil division of England, a portion of a greater division called a hundred. It was so called because ten free-holders and their families composed one. The character of these towns would not be important to us in the study of policing were it not for the fact that it indicates one fundamental belief in the minds of the Anglo-Saxons; that was their belief in the principle of self-government, a belief that has had an impact on modern policing. Another characteristic of the early Englanders was an overpowering desire for peace. This, coupled with their love for self-government, tended to make them uninterested in national affairs or in the application of law, generally. Criminal law, as such, was foreign to them. When an offense occurred in an Anglo-Saxon town a "hue and cry" was raised and the whole village turned out to seek the wrongdoer. This practice has been carried over to our day and is the basis for the right to arrest which every citizen enjoys.

The Anglo-Saxons did not believe in capital punishment. Nevertheless, they had some practices almost as bad as taking of a man's life. These included trial by ordeal and branding. In trial by ordeal, a man might be required to immerse his hand in boiling water. If it was not too badly injured, he was considered innocent; but if he was horribly burned, he was considered guilty and was then branded and driven from the town. The same procedure applied to women accused of witchcraft. These hapless creatures would be tied hand and foot, thrown into a pond, and if they floated their innocence was assumed, but if they sank it was considered that they had their just due. Needless to say, most of them were found guilty. In each case, the guilt or innocence of the accused would be determined solely by the injury

received.

Other punishments prescribed by the Anglo-Saxons were imprisonment for debt and transported to a distant land. Both of these now seem unreasonable to us. A man could not work and pay off his debt if he was languishing in jail; and shipping a man to a far away place to work out his fine amounted to little more than slavery. Many unsavory practices of the early Anglo-Saxons were dropped by the Normans who overran and conquered England in 1066 A.D. The English speaking world, however, owes much to the Anglo-Saxons, not withstanding certain outmoded practices. Their love of self-government has become part of our most cherished heritage. Furthermore, their disapproval of capital punishment has made itself felt in the application of criminal law. The system of the graduated fine used by the Saxons is well known in American jurisprudence. Their desire for civil restitution first has worked its way into the law and is today a consideration of the court and the state.

NORMAN POLICING

William the Conqueror, who led the invasion of England and subsequently became its king, had an entirely different idea of government from that exercised by the Saxons. The year of 1066 A.D. is the most important single year in the history of policing for that reason alone. William turned things topsy-turvy insofar as the Anglo-Saxons were concerned. Because he was a farsighted administrator, practically everything he did proved beneficial to succeeding governments and people.

One of the first things William did was to establish a national government. This replaced the strictly local government of the natives. This move involved expenditures; necessary expenditures. So the next thing he did was to institute taxes. He insured the collection of these by creating the "Doomsday Book", wherein the location of taxable property and owner's residence were recorded. This practice came down to us and we know it now as the census.

The Salisbury Oath, another innovation of William, the Conqueror, was a simple pledge of allegiance to the king. It was called the Salisbury Oath because it was taken on the plains of Salisbury at the conclusion of the Norman conquest. We do not call it by that name today, but the pledge of allegiance to the flag of our country is a direct descendant of this famous Salisbury Oath.

The office of "sheriff" was established by the Normans, but this title was not immediately applied to this office. In fact, the name "sheriff" is a derivation of two words -- "shire" and "reeve". The Normans created each of these; the Shire was the counterpart of our counties today, and the chief law enforcement officer was the Reeve. Thus, there existed the "Shire Reeve", the enforcement officer as the Reeve within the area of the locale that is the Shire. Throughout the years the English, with their natural facility for reducing everything to its lowest common demoninator, reduced it to "Sheriff", and so it has remained for hundreds of years.

The early sheriffs, and at somewhat a later date the constable also, held an important place in the scheme of national and local government in England. There was a time when the Sheriff exercised powers akin to those of a Viceroy within the limits of his county. He received and interpreted the King's mandate, not only in matters concerning civil order, but in the military, fiscal, and judicial affairs as well. The whole plan of local

government once centered upon his office. The Anglo-Saxon sheriff was in the full sense the King's steward, not only was he the judicial president of the shire and administrator of the royal demands and decrees, but also the chief executive arm of the law within his jurisdiction.

The conquest merely operated to strengthen still further the foundation upon which the sheriff's powers rested and to reduce the whole scheme to a more systematic basis. Sheriffs were thereupon appointed from the second rank of the Baronage. In a few cases, the office seemed to have become hereditary. As a result, the Norman Kings took care that the larger powers exercised by the sheriff were employed for the ultimate benefit of the crown. To this end, the sheriff usually held his office at the King's pleasure and enjoyed its profits only as long as the transactions were profitable to the King.

Sheriffs enjoyed little popularity. Sometimes they bought their appointments from the Crown, often they were non-residents of the county which they served. Nearly always they were primarily concerned with fattening their own purses. Acting in effect as Royal Prefects, they could perpetrate the gravest abuses with impunity. Scandals multiplied, sheriffs were repeatedly charged with inactivity in the pursuit and prosecution of criminal offenders, with speculations on a large scale, abuse of their powers to serve personal ends, falsification of election returns, neglect to summon juries as a means of protecting favored defendants. Forgery and trickery marked their administration of office.

Within little more than a century after the conquest, sheriffs were forbidden to act as justices within their own shires. A severe check was administrated to their law enforcement powers through the creation of the cognate office of Coroner. With this new loss of power, sheriffs began acting as baliffs and assistants to the itinerant justices rather than as equals and colleagues. Decline in the sheriff's importance, thereafter, proceeded at an accelerated pace; their powers waned with the relaxing grip of the Crown. From time to time there were lapses into the old regims, when the sheriff reappeared as a kind of Royal pro-counsel. During such intervals the sheriff collected dues for the King, exercised an important function in the sheriffs tourn (a criminal court of record held before a sheriff twice a year), presided over the assembly of Free-holders in the county courts, pursued and apprehended malfactors and upon the King's proclamation summoned the military forces in their respective counties. From their acts, no matter how oppressive, appeal lay only to the King. It contributes, somewhat, to an understanding of the situation to "recall" to remember that the Norman Kings were often absent from England and did not speak the language of the country. Efforts, accordingly, were made to subject the office to local control and otherwise to restrict its influence. Just before his death, William the First, conceded to the counties the right to select their sheriffs. This power was quickly lost to the Barons and the Kings successor promptly reasserted the ancient prerogative. So with the question of central control settled, the sheriffs persisted as a kind of royal lieutenant. Such marked capacity for survival did not protect the sheriff from other loses.

The Magna Charta deprived them of many of their judicial powers. Their accounts were made subject to annual audits and their appointments limited to a single year. It was intended that reappointment should thereby be forbidden. This expedient failed. Nevertheless, the work of demolishment and the leisurely processes of decay still went on for centuries. Glorious

traditions clung to the office for many years and pretension to power, long lost, was maintained until well into the nineteenth century. Then the petty civil jurisdictions which still adhered were swept away by statutes, sheriffs were relieved of responsibility for the care and custody of their prisoners, while the new system of highly organized borough and county police forces effectively blocked them from exercise of their ancient police powers. There now remained only the duties to attend judges, to summon juries, and to enforce civil judgements. Sheriffs are still selected by the crown from lists submitted by the Chancellor of the Exchequer and the justices of the king's bench. Appointments are for one year, and service is both compulsory and unpaid. Under sheriffs do all the work with the traditional officer occupying a purely ceremonial place in the scheme of things.

Like the sheriff, the constable may be traced back to Anglo-Saxon institutions with an early history which is similarly interwined with military affairs and with martial law; for after the conquest the Norman marshalls, predecessors of the modern constable, held great positions of great dignity and were also drawn from the Baronage. As leaders of the King's army, they seemed to have exercised a certain jurisdiction over military offenders particularly when the army was engaged on foreign soil and therefore beyond the reach of the usual institutions of justice. The disturbed conditions attending the Wars of the Roses brought the constables further power of summary justice as in the case of treason and similar state crimes. They therefore offered a convenient means by which the English kings, from time to time, overrode the ordinary safeguards of English law. These special powers were expanded until they came to represent what we now know as martial law.

During the reign of Edward the First, the hundred, a group of ten tithings, were placed under the command of constables. These were required to supervise the armor and the equipment of the men of the hundred who were employed both for military defense and for the pursuing of law violators. Each parish or township had its constable, and the posse comitatus, or county militia, turned more and more to the question of defense, the constable was left to pursue felons alone. The ancient custom of making "hue and cry" after criminals, with the entire countryside up in arms and joining in the hunt, lapsed into disuse. The civil police officer began to emerge. It must be understood that there was as yet no high degree of specialization. During the Middle Ages the constable was loaded down with a highly miscellaneous collection of duties, ranging all the way from the collection of taxes to the supervision of highways, with magisterial functions thrown in for good measure. The office became subject to elections and was commonly conferred upon personages of local importance. The appearance of the justice of the peace quickly changed this trend, however. Their rise to power was affected at the expense not only of the constables, but of the sheriff and coroner also. By the beginning of the sixteenth century they had secured control of the local police systems and the constable was constrained to make arrests upon a warrant issued by these justices. From being officers of wide discretion in conserving the public peace, the constable sank to the status of retainers to the justices. They did the difficult, burdensome, and dangerous work for the latter. The office was no longer attractive. It had been deprived of civic and social prestige. It carried no compensation, the

service was compulsory and the duties were onerous. Finally it became so unwelcome a distinction that incumbants were chosen by "house row", a kind of indiscriminate "rotation among occupiers". Under such circumstances frequent changes were a prime necessity, and hence the constable's term came to be limited to one year. Even so, many of those chosen sought to evade service until the practice developed of permitting the elected incumbent to provide a substitute upon payment of a sum of from five pounds to ten pounds.

Through all these years, the police duties of the constable were combined with other administrative functions. The high constable (of the hundred), also served as tax collector until well into the nineteenth century, while the parish or petty constable, even after the loss of his judicial powers, continued to act as the overseer of highways. Thus at every turn the signs of disintegration manifest themselves. By a consistent process of old power and glory, which once were attached to the office were gradually worn away. The middle years of the nineteenth century finally brought a crystalization of public opinion when parliament in 1856, swept the entire traditional system into the discard and set up highly organized county constabularies in its stead.

The most important thing that came out of the era of Norman policing was the interpretation of law violations. As mentioned earlier, the Normans introduced national government in England. This meant that crimes against the king had to be considered first and civil restitution matters had to come second. In keeping with this view, the Normans, under the laws of Henry in 1116, classified a number of offenses as crimes against the king and directed them to be punished as felonies. These offenses were Arson, Murder, Robbery, False Coinage, and crimes of violence. A person wronged in any of these cases could still obtain his civil restitution, but not until the king had recovered his losses first. It was a revclutionary departure to suddenly have a man punished by the state for his crimes rather than by the people he had injured; yet this was a far better system than that employed by the Anglo-Saxons. The ordeal was eliminated as a means of finding the truth in their crime and the grand jury was substituted for it. The charge to the jury was: "The jury upon oath shall tell whether there is in the Hundred any man who has been accused publicly or suspected of being a robber, murderer or thief." The idea of the inquest came from this body. The report of the Grand Jury was known as vere dictum, but usage soon shortened that too, today it is known simply as the verdict, which means truth saying. The Anglo-Saxons were not rebellious under the Normans but, on the contrary, seemed peaceful under the invader's leadership. However, it was a severe blow to lose the right of self-government. With supreme powers reposing in the hands of the king, it was not long before abuses began to arise. These abuses came to a head in the time of King John, who occupied the throne in the absence of his brother, Richard the Lionhearted. While the latter was leading the Crusades in Palestine, John was running rampant with power at home. Because of the abuses of King John, the nobelmen of England joined with the common people and forced him to sign the famous Magna Charta, or the Great Charter in 1215. This great forerunner of our own Constitution provided two things for the people of England. First it stipulated that "no man shall be deprived of his life, liberty or property except by due process of law" and, second, it restored the right of self-government to the cities and villages. Another leading development in the era of Norman Policing was the introduction of the system of itinerant judges. These were the forerunners of our circuit courts. The whole system of judicial administration under the Normans was fundamentally correct.

The framework of the common law as we know it today was established by them. It consisted of two branches, the criminal law of the Normans and the civil law of the Anglo-Saxons. Under the Normans, especially after they restored the right of self-government, we see the development of law as we know it today. There was the law of the state embraced in the statutes and the law of the cities as included in the ordinances. The Normans preserved what was good under the Anglo-Saxons, but they added their own improvements. We must admit, that in policing, the Norman period represented a great comprehensive overall method of preserving the peace on a nation wide basis. It was truly the first great era of policing.

WESTMINISTER ERA OF POLICING

Under the reign of Edward the First, some of the greatest changes in English constitutional law were enacted, intended to strengthen the power of the Crown by judicial and clear definition of its privileges. The movement in this direction started with this first statute of Westminister enacted in 1275, which was directed primarily to the improvement of administrative details and which was accomplished by a grant to the king of permanent customs revenue on imports and exports. This source of income for the crown soon became more valuable than the old futile taxes on lands. The statute of Winchester, also passed under the reign of Edward I in 1285, was mainly concerned with the keeping of the peace in the realm. It established arterial highways by placing control of the highways outside of the city in the hands of the state, while it left the regulation of the streets to the cities. It attempted to control and regulate prostitution in the cities by requiring prostitutes to live in certain areas. They were to identify their businesses by painting the windows of their quarters red and hanging lanterns in back of them; thus we have the beginning of the red light districts. The statute of Winchester may be considered the second great legislative act of the Westminister period. It revised the organization and armament of the militia and provided a useful police force for the repression of disorder and robbery. Basically, this statute may be considered as one more device passed by Edward to strengthen the power of the crown.

The Justice of the Peace Act was passed in the Westminister period in the year 1361. The justices were supposed to overcome some of the weaknesses that existed in the sheriff's office. A justice was appointed in every county or shire. In those days he was required to be learned in the law and was directed to restrain offenders, rioters, and to pursue, arrest and to take and to chastise them according to their offenses. The justice was directed to find a man by indictment only, but having done this he was then permitted to admit the defendant to bail, if the ends of justice would not be defeated, thereby. His authority read: "And to put them in prison and to take all of them that be not of good fame, where they shall be found, sufficient surety for their good behavior." The office of the Justice of the Peace has come down to us from these early days, but he is no longer the important officer he used to be. In some areas of the United States, Justice of the Peace has been abolished and in others his authority has greatly diminished.

Probably the greatest shortcomings of the Westminister period, insofar as policing is concerned, was the institution of the Star Chamber, a court of the king. It was the divine right of kings and his majesty wanted all offenders against the crown to be tried in his court. Many grave abuses

arose. The third degree had its beginning in these courts. The defendants were regularly flogged and tortured in open court until they confessed to alleged crimes. In due time, this practice became revolting, even to the judges themselves, and the practice was dropped. Out of this, however, arose two of the greatest guarantees we enjoy today. The guarantee against self-incrimination and the guarantee of freedom of speech. The Westminister period terminated around the year 1500.

WATCH AND WARD OR THE BOW STREET RUNNERS

The period of colonization also known as the period of the Watch and Ward or the Bow Street Runners had its beginning in 1500 and terminated in 1800. It includes the years of the colonization of America. Our country, the Colonies, was providing a great market for English goods, particularly woolens, and to supply these, the land owners of England converted their farms almost exclusively to sheep raising. This period or practice, known as the enclosure movement, ousted the people from the lands and imposed grave hardships on the poor people. Unemployed and homeless, great hoards of them wandered aimlessly around the countryside or flocked into the already overcrowded cities. At the time of the enclosure movement, England was involved with a war with Phillip of Spain, on one hand, and trying to keep down civil war at home, on the other. Result of this, was that a period of strife and strain existed in the Isles. Moreover, as always in times of social upheaval, crime increased sharply, and the baliffs were hard pressed to keep order. It was then that the commercial people established their own police, modeling them after the effective Watch and Ward system, which the old city of London had organized many years before. These commercial or parochial police were not officers in the regular sense of the word, since their main concern was the protection of stores and shops. Nevertheless, in their patrol methods they established patterns that are still being followed by our beat patrolmen today. The military police of England were introduced during this period in the year 1655. Oliver Cromwell established this unit to quell internal conflict following the wars. He created twelve police districts in England and Wales and placed a provost marshal in charge of each. There were six thousand police, and all but two hundred of them were mounted. These men constituted the first mounted police force. It is significant, too, that they received orders very similar to the orders we issue to our police today. They were told to watch who lived beyond their means, as well as those of low morals. The Bow Street Runners was perhaps the most important unit established in this period. It was organized by Henry Fielding in 1749, after he had written a book involving an exhaustive inquiry into the cause of crime. Fielding concluded that the existing police forces were ineffective because the men were not properly selected in the first place and not paid an adequate salary in the second place. He organized his force along two basic lines, namely, the foot patrol in the city and the mounted patrol around the highways. He also created a business detail which has evolved into our present day downtown traffic unit. Other innovations by Fielding included the establishment of special courts to hear police cases from day to day and the circularization of crime news. In the former, he was trying to avoid the evil of having men languish in jail while

they awaited trail on petty charges. This is the same objective of today's police and traffic courts that hear cases daily. In the circularizing of crime news, Fielding had the twofold aim of developing more co-operation from the public, and of discouraging the vicious reward incentives that were then in vogue. These reward incentives had contaminated not only the general public, but the police, prosecutors, and courts as well.

The passage of the Habeas Corpus Act and the birth of the Bill of Rights were also important developments during this policing period. Anthony Cooper introduced the Haebeas Corpus bill because of the multiple indiscriminate arrests and jailings. Under this act, the prisoner could demand to know why he was being held, and he could be imprisoned only within the confines of the county. This is the contemporary interpretation of the ancient document, the Magna Charta, which had embodied in its clauses that the crown could not take people into custody and keep them there without disclosing the charged and the fact that the person was being held, and why he was being held. Upon the presentment of a writ, the king under the Magna Charta, had to give up all these people or this person. It fell into disuse through the centuries but was revived during the Colonization period. After this second passage during this period, it was used for a considerable time and it fell into disuse again. The Bill of Rights, in a similar vein, was the great document which stipulated that excessive bail ought not to be required, nor excessive fines imposed, nor cruel or unusual punishment be inflicted. Each of these acts has had a tremendous impact on the entire field of law enforcement. Prior to the action of Anthony Cooper, the introduction of the Haebeas Corpus Bill, another important figure in law, Sir Edward Coke, developed and presented the Petition of Rights to Charles the First in the year 1628. This Petition of Rights is based on earlier charters and statutes securing recognition of four basic principles: 1. Taxes may not be levied without the consent of Parliament; 2. No person could be imprisoned for refusing to make payment which had not been legally established by Parliament; 3. No person could be imprisoned for any offense without cause and without opportunity to answer the charges; and, 4. Soldiers and Marines could not be housed in the homes of the citizenry, and marshal law could not be used in time of peace. Part of the Petition of Rights in section three states,

> "and whereas also, by the statute called the great charter of the liberties of England, it is declared and enacted that no free man may be taken or imprisoned or be desized (dispossessed) of his freehold, or liberties of his customs, or be outlawed or exiled, or in any manner be destroyed but by the lawful judgement of his peers, or by the law of the land."

This is the beginning of the recalling, by Coke, of the Great Charter or Magna Charta and the stipulations that had fallen into disuse. Coke was very instrumental in the restoration of the individual's rights because of his love for human dignity. He struck a keynote that has been maintained through the various constitutional writings, "No restraint be it ever so slight but is imprisonment." His plight was for an end of the arbitrary powers of the crown. The Parliament of 1628 adopted this now famous Petition of Rights as another article of fundamental law which is second only to the Magna Charta. The Haebeas Corpus Act, of later time, by Anthony Cooper, was a reiteration of the Petition of Rights which reestablished the Magna Charta. This action of Coke's advanced the time when the powers of the king were curbed. Coke's dream of this judicial supremacy was realized

in the wilderness of the Americas. Sixty years before this victory, those Englishmen disagreeing with the crown left for the colonies of the new world. They took with them the common law and the philosophies of the Magna Charta, with its basic ideologies of the supremacy of law. "No free man shall be taken or imprisoned or desized or exiled or in any way destroyed, nor shall we go upon him nor send upon him except by the lawful judgement of his peers, or by the law of Edward Coke, the basic right of man to be free of the king's injustice. This philosophy of the right of man became the fundamental of law in the new world; first in the "Fundamental Orders of the Connecticut Colony of 1638" and later in the Constitution of the United States.

MODERN POLICING PERIOD

The modern policing period dating from 1800 to the present time, came into existance for a number of reasons, but mainly because of the industrial revolution. This began in 1765 when Wyatt invented the steam engine. This invention made it possible to pump water out of the coal mines, opening up a great resource of power. Later, Darby discovered a way to make steel and it was not long before industrial progress was in full swing. Extensive capitalism followed in the wake of these developments, and after that the wide spread poverty of the masses. Charles Dickens has dramatized and preserved for us a picture of the suffering that existed during these transitional times. When the economy of the nation is out of balance, as it was in those days, crime is sure to grow by leaps and bounds. Gangs developed in England and there were numerous robberies, especially in London. "Fences" came into existance, there were more than six thousand of them at one time in the city of London alone. Promiscuous counterfeiting flourished and there was a great increase in the crime of murder. Parliament cautioned the police to take stringent steps to cope with the deluge of crime. Severe penalties were imposed. There was at one time a hundred and sixty capital crimes in His Majesty's government; one could be hanged for stealing a loaf of bread. Convictions were multiple; after a while the public sickened of the hangings and juries became so disenchanted with the law that they would not even convict for murder. Transportation was employed and thousands of criminals were shipped to such far away places as Australia and certain parts of the Americas. Parliament even went to the extreme of offering rewards for the apprehension of criminals and the inevitable vigilante came into existance. Volunteer police were no more effective then than they later proved to be in our own country.

Robert Peel, the home secretary, later Sir Robert Peel, after the passage of the Metropolitan Police Act of 1829, was the first farsighted Englishman to see a solution of the crime problem. He determined upon a protective body of well trained policemen as the way out. Policemen superior even to the previously efficient forces created by Fielding. The fundamentals that guided him in the creation of his force has come down to us as Peel's Principles and are just as pertinent today as they were over a hundred years ago. The principles are as follows:

1. The police must be stable, efficient and militarily organized under government control.
2. The absence of crime will best prove the efficiency of the police.
3. Crime news must be widely distributed.
4. Territorial distribution of the force by hours and shift must be accomplished.
5. No quality is more indispensable to an officer than a perfect command of temper, a quiet determined manner has more effect than violent action.
6. Good appearance commands respect.
7. Proper securing and training of personnel lies at the root of police efficiency.
8. Public safety requires that every policeman be given a number.
9. Police headquarters should be centrally located and easily accessible to all the people.
10. Policemen should be appointed on a probationary basis.
11. Police records are necessary for the correct distribution of police strength.
12. The best way to select men is to size them up and then find out what their neighbors think of them.

These principles of organization proved sound in England so New York City copied them when it organized its first municipal police force in 1833. The American counterpart for the modern policing period maintained the constable concept in the New England area. These little towns were primarily industrial, their population had come from crowded towns in the old country and the constable was the most familiar to them. While the area to the south, in the vicinity of Virginia, the people were essentially agrarian since they lived on large tabacco plantations and thus thought only in terms of county government and chose the sheriff as their law enforcement officer. The division of police authority worked very well at first, but when the great middle and far west regions opened up, the New Englander and the Southerner started moving westward together and found the whole police setup needed revision. About the year 1818, in towns and counties sprinkled throughout the Northwestern territory, there were sheriffs and constables exercising similar authority. Constitutions ultimately provided for police officers in the various states. The sheriff was made the chief law enforcement officer of the county and this of necessity included the cities. The pioneers, however, never thought much of police at best so they reserved a close control over them. The sheriff's office, for instance, was made an elective one and then for short periods. The development of the real municipal police was a long time in coming.

In 1790 there were only six cities in population over eight thousand. Prior to 1800 all we had in the nature of policing were the night watch in the cities of Boston, New York and Philadelphia. Boston's watch was the oldest, having been organized in 1636. Its principal job was to keep the Indians from stealing. New York established the Rattle Watch in 1658, but this was little more than a farce. In 1700 Philadelphia created its night watch consisting mainly of the vigilante type men. These men, after a while, became so unreliable that the public feared them more than they did the thiefs and other felons on the street. Daytime policing began in the United

States around the year 1800. By this time the people, not being able to avoid the police job altogether, were getting tired of working at night. Furthermore, since there were no police available during the daytime hours, juvenile delinquency increased to such an extent that police had to be employed. The depression of the 1830's accented the need for policemen. There were riots in three major cities, namely, the Negro Riot in Philadelphia, the Flower Riot in New York City, and the riot between the firefighting brigades in Boston. Because of these developments, the legislature of New York took the lead in 1844 and established the first real municipal police force in this country, in the city of New York. The force consisted of eight hundred men and was headed by a chief and service was provided on a twenty-four hour basis. But a system of spoils came into the police service during President Jackson's administration; graft took over and disintegration of discipline set in. However, the public, fully conscious of the corruption, took various steps to remove it. Cincinnati, in 1840, tried electing it's policemen by the citizenry, but this did not work. New York, in 1850, on the other hand, created a police board which was supposed to be free of politics. It consisted of the mayor, a judge, and the recorder of all elected officials. Obviously, the non-partisanship of such a body was a myth. After this experiment, control of the police was vested in the legislature of some states. This was done in New York, but when the legislative controls failed, the matter was then referred to the City of New York where a bi-partisan board took over. The problem of graft was never completely solved, but it was lessened when the spoils system disappeared around the turn of the century and civil service took its place. It was Congress which, in 1883, passed the Pendleton Act creating the civil service system for government employees. As this system was adapted by local authorities, it marked the end to widespread police corruption.

The effects of this legislation did not reach to the top of the chain of command for many years. In the early part of the twentith century, a chief of police would be typically appointed by a mayor. (This still prevails in many small towns.) On many occasions, this appointment was used as a method of rewarding friends and repaying political favors. The misuse of this appointing authority was illustrated by the Wickersham Commission, established by President Hoover in 1931 as the National Commission on Law Observance and Enforcement. To illustrate, a few years before the commission was formed, the Mayor of Indianapolis was called upon to introduce the police chief of that city to an assemblage of police chiefs during one of their conferences. In the course of his introduction he remarked: "I know that my man is going to be a good chief because he has been my tailor for twenty years. He knows how to make a good suit, he ought to be a good chief." Stringent civil service regulations were enacted in many communities to counter this evil, and the requirements that the chief of police had to be selected from among men presently in the department ensued. The Wickersham Commission's report marked the beginning of the modern police department. It was directed by August Vollmer, a California police chief, who had incorporated many of the ideas he had developed and tested in his own department. Adequate training for police recruits and officers already in service, a complete but simple system of police records, motorization of patrol forces, and communications systems with radios and call boxes. But Vollmer's innovations were only the beginning. In the fifty years since

the Wickersham report, the law enforcement officer has taken on a wide variety of new roles in his stride. Expanding his skills to meet the demands of a complex society, many of these new roles were explored by the Task Force on Police, formed in 1965 as a study group under the President's Commission on Law Enforcement and Administration of Justice. In addition to examining the problems on law enforcement, the Task Force detailed many areas of progress for the American Police Officer.

With the advent of the Law Enforcement Assistance Administration, a commission was established to formulate for the first time national goals and standards of criminal justice for the prevention and reduction of crime at the state and local levels. This Commission, the National Advisory Commission on Criminal Justice Standards and Goals, has issued its report, the Report on Police, with recommendations and standards which will influence the shape of the criminal justice system for many years to come.

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THE LOCAL POLICE DEPARTMENT

The purpose of this section is to provide the student with an overview of the law enforcement agency serving his or her community. It will be necessary for the user of this curriculum guide to prepare this section using local information. It is suggested that the following topics be covered:

- History of the local department.
- Brief overview of the department's organizational structure
- Brief overview of the activity of the department (crime, arrests, accidents, service, etc.).
- Salaries and benefits.
- Recruitment, selection, and training.

As an example, a copy of the materials used by the Waterford Police Department are included.

History of The Waterford Police Department

I Background

The Waterford Police Department was officially organized by Special Act #228, of the General Assembly in 1939. Prior to this date, the Town was patrolled by a few constables who worked on a fee basis and also the Connecticut State Police.

This method of operation continued until 1954, when four officers were sworn in and at this time, radios were purchased and placed in the officer's private cars. The officers were reimbursed for their expenses, gas, oil, and repairs to a certain degree. In 1956, the Town purchased two cruisers which were operated during the day and evening hours, and after midnight, a telephone answering recorder would advise the caller as to which officer was on duty after midnight, and if the officer couldn't be reached, then the only alternative would be to call the Connecticut State Police. During this period and also prior to this time, the First Selectman was considered the Chief of Police, although neither he nor the officers had received any formal training in the field of Law Enforcement.

In late 1957, a retired Connecticut State Trooper was hired as the first Chief of Police and in 1958, four new officers were hired and also a number of supernumerary police officers (part-time policemen) were hired and formal training was instituted. At this time there was formulated a set of Rules and Regulations and the Chief served under the Board of Selectmen, who also acted as the Board of Police Commissioners. The patrol was also increased to twenty hour hours a day coverage.

In 1960 another four men were hired making a total of twelve, by 1970 the department had increased to twenty full time officers. During this iterim, a number of significant things had taken place:

a. A Board of Police Commissioners was established in March, 1962. This was a five man board which was autonomous.

b. The Chief of Police passed away in 1962 from a heart attack and the department operated under the direction of the senior sergeant until 1964.

c. A new Chief of Police was appointed in 1964. This man was a retired Lieutenant from the Newport Police Department in Rhode Island and served until 1970, when he also suffered a heart attack and died.

d. The department moved into a newly renovated building (formerly the Town garage) in 1970. Prior to this, the department operated out of one or two rooms in the Hall of Records, where it finally ended up in the basement with a total of four rooms (including the boiler room as a locker room).

The present police building has cells, locker space, office space, garages, evidence storage areas and other associated police service areas. (see attached floor plan Appendix D) approximately 6,000 feet of floor space.

II Overview of Current System

The present department consists of thirty-five men, three full time secretaries and eight supernumerary patrolmen as follows:

1 Chief	2 Detectives
3 Lieutenants	24 Patrolmen
5 Sergeants	3 Full time secretaries

The department has six fully equipped police cruisers plus four unmarked detective cars and one fully equipped police boat.

The Town of Waterford, incorporated in 1801, has a present population of 18,500 and covers approximately 37 square miles. It is bounded on the

east by the City of New London (Pop. 32,000) and the Thames River, the north by the Town of Montville (Pop. 17,500) and the west by the Niantic River, which separates the Town from the Town of East Lyme (Pop. 13,500), and the south by Long Island Sound (a body of water adjacent to the Atlantic Ocean).

There are numerous State highways through the Town, all eminating from or through New London. There is also an Interstate highway (I-95) which travels east and west, and a portion of the Connecticut Turnpike (CT. RT. 52), which travels north and south.

The Town, formerly considered a rural farm community, is presently residential in nature with some light industry, the largest facility being Northeast Utilities Atomic Energy plant at Millstone Point, where there are presently two nuclear powered generating stations, with a third under construction.

III. Organization

IV. Budget

V. Statistics (Complaints, arrests, accidents, etc.)

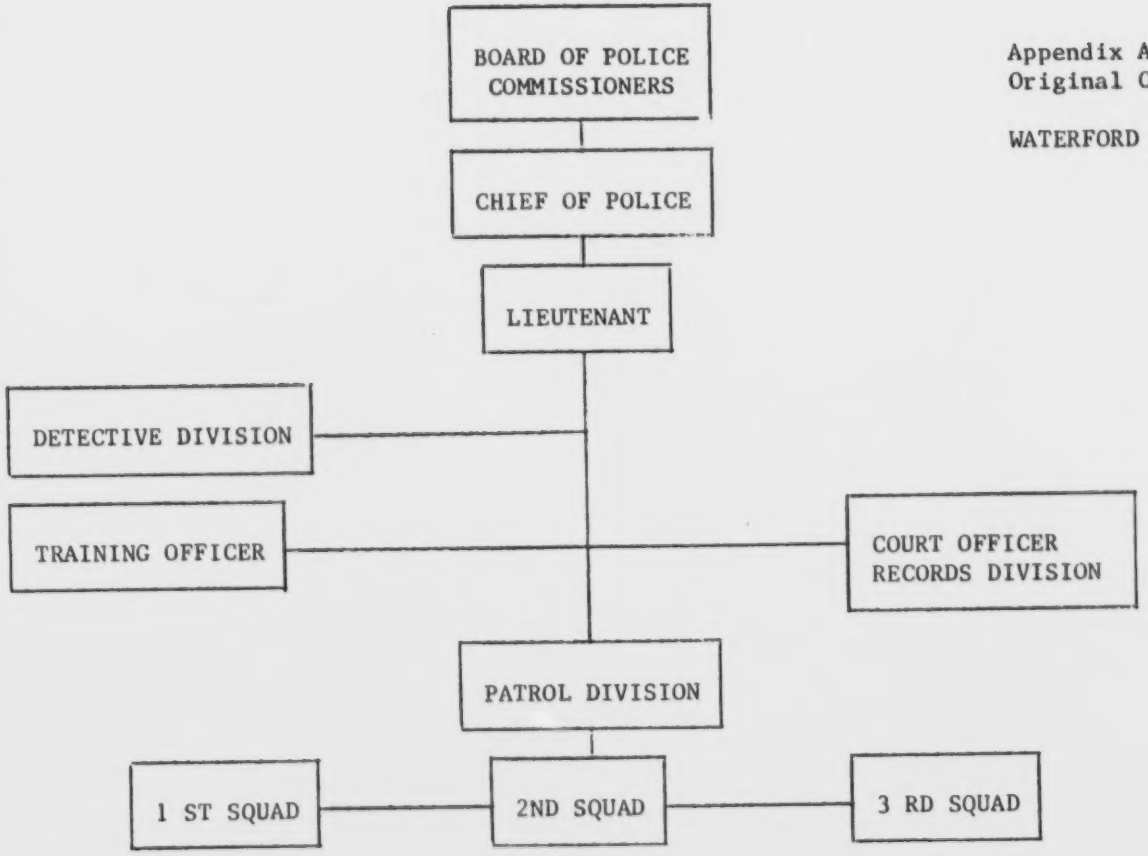
VI. Salaries and Benefits

VII Recruitment, Selection, and Training

VIII Slide Program - Waterford Police Department

Appendix A
Original Organizational Chart

WATERFORD POLICE DEPT.



Town of Waterford

POLICE DEPARTMENT

204 Boston Post Road

Waterford, Connecticut 06385

Telephone
(203) 442-9451

JAMES A. PERKINS
CHIEF OF POLICE

TO: APPLICANTS FOR POSITION OF SUPERNUMERARY POLICE OFFICER FOR THE WATERFORD POLICE DEPARTMENT

The following requirements must be met to be eligible to take the written exams (2), and the oral exam (1), to be considered for the position of Supernumerary: Police Officer

1. A photo, black & white or color, of yourself, not in a group.
2. Birth Certificate - indicating you are a citizen of the United States or a naturalized citizen.
3. Marriage Certificate if applicable.
4. Discharge Papers if applicable.
5. Copy of High School Diploma or G.E.D. certificate.
6. Age 21-45.
7. Vision - correctable to 20/20.
8. Weight - proportionate to height.
9. Connecticut Operator's License.
10. Residence Requirement - can be waived.

After successful completion of your written and oral and physical agility exams, a background check will be conducted by this Department into various areas such as driving record, criminal record, credit standing, neighborhood friends, etc.

At the present time, the Department is interested in hiring up to ten (10) Supernumerary Patrolmen.

Supernumeraries work part time for the Town at $3.95 per hour or outside jobs at the same rate as the regulars at $7.50 per hour. Supernumeraries have option of obtaining a $17,500 accident insurance policy which is Town paid if they are members of P.A.C.

WATERFORD POLICE DEPARTMENT
AGILITY TEST

In addition to a minimum height, weight and age requirement, we recommend the reestablishment of a strength and agility test. There is a direct correlation between physical fitness and the probability of successfully completing recruit training. Based on recent events at the State Police Academy, we know that recruits must possess a minimum level of fitness. Instructors at the Academy have kept detailed records of the achievements of trainees on physical tests for the last two years. Using these statistics and those available from prior use of agility tests as a basis, we have devised the following minimum fitness test which we recommend be adopted. The test would be administered on a pass-fail basis and candidates would be expected to successfully complete all events.

1. Jog 1 mile - time 10 minutes.
   (test for clear respiratory system and circulatory system)

2. Situps - fingers, arms locked behind head, feet not held.
   (test for back and stomach muscle development)

3. Standing broad jump - distance 5'10"
   (test for coordination, sound legs, ankles, knees and feet)

4. Bar Hurdle - height 2'6"
   (test for coordination, sound legs, ankles, knees and feet)

5. Pushups
   (test for upper chest development - sound shoulder and wrists)

6. Dummy left - 3 tries 125 lbs., must complete 2 out of 3.
   (Astride dummy - arms wrapped around middle of dummy - lift dummy to chest in one motion. Then using legs drive dummy onto shoulder. On signal, lower dummy gently to original position.
   (test for overall physical strength)

WATERFORD POLICE DEPARTMENT

Applicant's Name _____

Date _____

POLICE OFFICER
STRENGTH & AGILITY TEST
RATING KEY

EVENTS	REQUIRED MINIMUM NO. (Time or Distance)	PASS	FAIL	RATER
Pushups	15	___	___	_____
Situps	15	___	___	_____
Bar Hurdle	2'6"	___	___	_____
Standing Broad Jump	5'10"	___	___	_____
Dummy Lift	125 lbs.	___	___	_____
Jog 1 Mile	10 min.	___	___	_____

COMMENTS (IF NECESSARY) _____

_____

_____

_____
Examiner

DATE: _____

SCORE: _____

NAME OF CANDIDATE: _____

PART I

APPEARANCE	(Surface impression)	_____	
MANNER	(Way of presentation, gestures, general attitude)	_____	
SPEECH	(Voice and expression)	_____	
VITALITY	(Interest, initiative)	_____	
MATURITY	(In elements required by position)	_____	
	PART I TOTAL	_____	_____

PART II

JUDGEMENT	(Tact and logic of presentation, coherence of answer)	_____	
QUICKNESS AND CLEARNESS OF COMPREHENSION	(Mental adaptability and reaction)	_____	
	PART II TOTAL	_____	_____

Failure to achieve a rating of at least 35 on either part of the oral test indicates failure to pass this phase.

_____
Examiner

UNIT INSTRUCTIONAL GUIDE

THE POLICE ROLE IN MODERN SOCIETY

UNIT OBJECTIVES

To create an understanding of police methods and duties, how they are formed to fit the needs of the community and how community support and acceptance is gained.

TEACHING METHODS

Lecture and extensive class discussion as a means of presentation. Also films depicting the changing role of policemen and community attitude toward the police.

INTRODUTION

The topic of this class is the ROLE OF POLICE IN MODERN SOCIETY. By the word "role," we are referring to the place we occupy in the community, our goals, our function, our duties. This topic is the subject of much controversy and concern - both to law enforcement officers and to the community as a whole. Each person in the community thinks of the police in a different way. Each person expects different things from the police and expects the police to do things in a different manner. Over all, it must be said that very few persons outside of law enforcement really know much of what makes up the policeman's world. Many things that policemen do for very particular reasons are completely misunderstood by the general public. Such time-proven procedures as keeping one's hand near his service weapon when approaching a traffic violator are thought, by a large segment of the public, to be acts of a bully. Most people do not realize how many policemen get murdered while approaching traffic violators. People will only accept those things which they understand. So it is with the person who has been a policeman long enough to forget what things look like to the citizen. An outsider-insider attitude then develops which in turn produces mutual distrust. The only solution to this is free and sincere communication between the policeman and the citizen.

The middle-aged businessman feels that the police should have much more authority - enough to provide instant solutions to the complex and powerful problems that threaten his particular way of life. He feels that rioters, agitators, narcotic addicts, and other "subversives" should be imprisoned, deported or shot. Other people of a different stripe feel they should be allowed to do their "own thing." They feel that the policeman should be out catching "real criminals" instead of harrassing young people who are doing nothing worse than taking a few pills or smoking a bit of marijuana. They feel that the police should just help people - not bust them.

Still other people, among them self-declared experts, feel that the policeman should expand his job to include being a social worker - not just an enforcer of the laws. These experts also feel that the policeman would become more popular with the citizens if he would strip himself of his badge, his military-like uniform, service weapon, and other "oppressive" equipment and go about dressed in a prep school blazer.

As illustrated above, no one, even the police are sure of what is specifically the role of the police in modern society. We are in an era of upheaval, conflict, and change. Specific answers are not forthcoming for quite some time. Furthermore, the role of law enforcement may just continue to change constantly with history.

PRESENTATION

I. The duties of the police

- A. Crime Prevention
- B. Protection of life and property
- C. Enforcement of law
- D. Arrest of offenders
- E. Recovery of stolen property
- F. Keeping the peace
- G. Detection and correction of hazards
- H. Rendering other miscellaneous services
  1. Medical aid
  2. Animal control
  3. Accident investigation
  4. Arbitration in family and neighborhood disputes
  5. Pedestrian control

II. The new technology

- A. Changing problems force the police into changing techniques and roles.
- B. Modern times and technology require a different type of person for a policeman.
  1. Especially in the high density population areas.
  2. More education is required. The policeman must be familiar with scientific investigation and new methods of patrol.
     - a. Fingerprints
     - b. Ballistics
     - c. Handling of evidence
     - d. Forensic chemistry
     - e. Communications
     - f. Motorized patrol
     - g. Computers
     - i. Use of data systems for police deployment
- C. The police are always changing their methods and policy.
  1. The police are governed by the desires of the majority.
     - a. Law; which recognizes the needs of control of human conduct.
  2. The police enforce laws.
     - a. Created for the protection of all the people.
     - b. Laws come into being because of a need for personal protection.
  3. Laws are written by elected officials.
     - a. If a law is undesirable, it is usually changed by public opinion in the form of petitions, letters to representatives and the election of officials who say that they will change the law.

D. The police and politics
   1. There is a need for all laws to be uniformly enforced.
   2. If the police were effected by politics, instead of public opinion, the police would use favoritism in law enforcement.
      a. Big contributors to current political power would be exempt from the law.
      b. Different standards for different individuals.
   3. The police must be free to enforce the law impartially, and in a manner prescribed by law.
      a. As stated in the various codes.
      b. And in a reasonable manner, which is a broad term.
         (1) The legal authority of the police is based on what the individual policeman, acting within the manner prescribed by law, felt was reasonable at the time and under the circumstances.
         (2) The courts decide if the objectives of the codes are met, and rule on the reasonableness of the officers' actions.
         (3) Various courts don't always agree on what is reasonable.
         (4) This is why we have an hierarchy of courts in our system.
      c. Laws, and what is reasonable changes with time.
         (1) Death penalty is a good example.
         (2) The courts have felt the death penalty was reasonable for many years, but not feel that it is unreasonable.

E. Community Problems
   1. Static Community
      a. People who live or work in the community full time.
      b. Can be learned and patrolled.
      c. Low key problems due to lack of anonymity and community involvement.
      d. Good community relations possible.
   2. Transcient Community
      a. Doesn't normally live in the community or living there temporarily.
      b. Just visiting community.
      c. Anonymity creates freedom from peer pressure and investigation problems.

V. Enforcement Theories

A. Police Discretionary Powers
   1. Penal Code is to be enforced by the spirit of the law and not always the letter of the law.
   2. Often times, the penal code will use wording which give police the discretionary power of when and if to make an arrest.
      a. May as opposed to shall.
      b. Dependant upon cause for arrest.
      c. Seriousness of the crime.
      d. Knowledge of the defendant.
      e. Need for further investigation.
      f. Danger to the community by leaving defendant at large.

g. Circumstances.
h. Past record - retribution.

PURPOSES OF LAW ENFORCEMENT

There is a big difference in the basic functions of the police today as compared to the police of 50 years ago. The biggest difference is the great emphasis on miscellaneous public services that today's policeman performs every day. For the best understanding of police work today, we can think of the officer's duties as falling broadly into five major catagories:

Protection of life and property.
Preservation of the public peace.
Prevention of crime.
Enforcement of laws
Arresting of offenders and recovery of property.

PROTECTION OF LIFE AND PROPERTY

Most of the modern police departments are expertly trained in what to do when grave emergencies threaten lives.

A. First Aid Training
   1. How to stop severe bleeding.
   2. How to handle fracture cases.
   3. How to rescue drowning people.
   4. Artificial respiration
   5. External heart message.
   6. How to deliver a baby in an emergency.
   7. How to handle shock.

B. Unsafe Places
   It is the police officer's duty to inspect and report unsafe places, always for the purpose of saving life or property.
   1. Abandoned ice boxes.
   2. Open wells or deep holes.
   3. Unsafe rickety buildings.
   4. Unsanitary locations that lure rats and cause disease.
   5. Heavy equipment left unguarded at a construction site.
   6. Excavations and buildings under construction.

C. Street Safety
   It is a dereliction of duty for an officer to delay reporting a dangerous street condition.

D. Disasters
   Police departments also protect lives and property by making plans for any and all disasters.
   1. Nuclear attack.
   2. Floods.
   3. Earthquakes
   4. Major fires.
   5. Riots

PRESERVATION OF THE PUBLIC PEACE

The police maintain the public peace by preventing riots, mobs, and dispersing unlawful assemblies, and by insuring every citizen the rights guarenteed to him by the constitution and the laws of his state.

In a practical way, police officers preserve the peace by handling the thousand and one little things that come to their attention each day:

Family disputes.
Neighbor disputes.
Landlord and tenant disputes.
Business disputes.

These things by themselves are not very serious but unless they are handled properly by the officer, they could and very often have, become serious and tragic cases.

In 1973 the Waterford Police Department re-examined its attitudes towards criminal offenses against people and property. We realized we had two important factors that had to be dealt with. We had to deal with crime on an ever-increasing scale and find an even more effective method to deal with the increase. This meant we could no longer spend all our time apprehending criminals after the fact.

We recognized that the community was the most under developed and under utilized weapon in the war against crime. We started to devote considerable effort aimed towards improving police/community relations, educating the public on the role of the police and helping citizens to protect themselves and their property from being victimized by crime.

The Crime Prevention Program is broken down into two basic phases. 1) Dealing with current crimes against persons and property and 2) Crime prevention education.

I. Current Crimes Against Persons and Property

A. Selective Enforcement re: Accident Investigation
   1. Analyzing major accident areas and violations and taking appropriate preventative action in specific areas.

B. Termatrex
   1. A statistical information retrieving instrument used to identify problem areas.
   Example: The machine may reveal that on Saturdays between 2:00 a.m. and 4:00 a.m. most burglaries are committed by entry through the rear door into vacant homes at the beach area. Proper action would be to increase patrols in this area at this time.

C. Operation - Neighborhood Watch
   1. This program is designed to enlist the aid of people within a neighborhood to become aware of not only their own property but also their neighbors. This program is used in conjunction with the Bicycle registration program and the Theft guard program.

D. Operation - Business Registration
   1. This program is aimed at businesses within the community. First an officer evaluates the building and makes suggestions on ways to improve it to prevent the business from becoming a victim of crime i.e., better key control system, increased lighting, or pinning windows. Upon completion of the evaluation the business is given a sticker with an I.D. number.

E. Theft-Guard
   1. With this program the Department loans any citizen an engraving pencil to use to engrave their social security number on personal property as a means of identification. Each person is given a form to record his property which he maintains.

F. Bicycle Registration
1. A program that allows any citizen to register their bicycle with the Department. The bicycle is registered by name, make and number and the owner receives a reflective numbered sticker at no cost to place on the bicycle.

G. Safe Home
1. This program is now being conducted in the northern part of Waterford. It involves selecting certain homes along routes that the children use to and from school. The persons within these homes have volunteered to have someone at home during the hours that the children will be commuting to give any aid or assistance in case of emergencies. These homes are identified with stickers readily displayed in the windows. It is our hope that this program will expand to other school districts.

H. Housecheck
1. The Department will check the homes of any person upon notification of the residents' planned absense.

I. "911" Emergency Line

1. Any resident involved in an emergency can dial "911" to abtain any type of assistance i.e., police, fire, ambulance.

II. Crime Prevention Education - This program is called "Freedom and the Law" and consists of 5 phases.

A. Elementary Level
1. Objective: Take away fears and misconceptions children have of police officers by presenting safety programs and opening the lines of communication.

B. Jr. High Level
1. Objective: To provide an introduction to different phases of Law Enforcement.
a. This program allows students to "rap" with a police officer on their own level.
b. Also with the use of a program called "You and the Law" they begin to understand why police officers do certain things and react certain ways.

C. High School Level
1. Objective: To introduce the students of the Problems of Democracy class to the Criminal Justice System. This course takes 10 days and includes guest speakers such as prosecutors, attorneys, correction officials, etc.

D. Adult Education Level
1. Objective: To introduce adults to the Law Enforcement system within their community and reveal how it works. This course was offered for the first time during the fall semester of 1976 Adult Education Program. This program involves not only Law Enforcement problems but also Crime Prevention Programs.

E. Special Interest Groups/Selective Lectures
1. Objective: To provide special information to civic groups to help them help themselves i.e.,

a. Safety tips for women.
b. Drug Education - the identification of and the laws relating to.
c. Robbery Programs for home and business - How to Prevent It and How to Cope With It.
d. Burglary Program - same as Robbery Program
e. Senior Citizen Crime Prevention Program
f. Child Molesting - a two-fold program for children and adults.
g. Babysitting - responsibilities involved.

ENFORCEMENT OF THE LAWS

It is sometimes a most difficult job and a most thankless one for, while pleasing his immediate superior, the conscientious officer often provokes the very public he is trying to serve. One difficulty in enforcing the law is the multiplicity of the law itself. There are literally thousands of federal, state, and local laws that the police are expected to enforce. Even a judge or a lawyer seldom knows all these laws at a moment's notice.

ARRESTING OF OFFENDERS AND RECOVERY OF PROPERTY

Catching offenders and recovery of property is the oldest function of the police. It is a true police function and one that will never be divorced from the law enforcement body. Some of the greatest strides in policing have been made in the areas of scientific detection, investigation, and apprehension of criminals.

1. Fingerprints
2. Ballistics
3. Chemical Analysis
4. Photography
5. Polygraph
6. Voice Prints (not perfected)
7. Metal Trace Detection
8. Computers
    a. auto status
    b. automated wants and warrants
    c. NCIC, CSBI, NLETS
    d. Returning stolen or lost property
9. Hypnosis

UNIT INSTRUCTIONAL GUIDE

INTRODUCTION:

I believe that if you were to ask the average man on the street what law enforcement is all about, the answer would be: writing traffic tickets, making arrests and directing traffic.

Law Enforcement is more than this. The main reason people point out these police tasks is that they usually only see the uniformed policeman and what it appears he is doing. The average person on the street is probably aware of the existence of other law enforcement agencies and maybe a little bit about what enforcement they are involved with, but don't really connect them with the term law enforcement like they do with the uniformed beat policeman.

The fact of the matter is that law enforcement includes chemists, industrial security, technical experts, Federal bodies, such as the F.B.I., C.I.A., and the Secret Service, public relations programs, crime prevention programs and a variety of non-uniformed investigative personnel.

Law enforcement employes and trains secretaries, female investigators, game wardens, pilots, skin divers, and management personnel. The agency structure is very similar to a corporation and allows for all phases of management and supervisory personnel. The law enforcement salary structure is in line with private enterprise, with a heavy emphasis on education and experience.

Most all phases of law enforcement permit quick advancement and excitement, highlighted with ever-changing technological breakthroughs.

PRESENTATION: LAW ENFORCEMENT STRUCTURE

I. Police Policy, Training, Ethics and Recruitment

A. Policy

1. All police agencies are run on policy.
2. Policy is the general principles by which government is run.
   a. policy is dictated by the people through elected officials
   b. the head of the agency administers the policy dictated by the people
3. Necessary so that the community can best be served.
   a. each community has special problems
   b. the welfare and protection of the people is primary in importance
   c. policy changes with changing needs

B. Ethics

1. Every profession has an ethical code which serves as a guideline to employee conduct.
2. Police are in a position of public trust.
   a. private life must be maintained as an example
   b. a policeman must expect his actions to reflect on all other policemen.
   c. police ethics are enforced by the police community

C. Recruitment and Training
   1. Educational and physical requirements are set.
      a. educational requirements increase constantly with an emphasis on college training
      b. physical size is important due to the nature of the job
      c. the job is becoming more technical, requiring more stringent qualifications
   2. A written test is given.
   3. A physical test is given.
   4. Many departments utilize an oral examination.
   5. Background checks examine for bad character.
   6. Training in the Academy.
      a. academic subjects
      b. self defense training
      c. practical police patrol training
      d. a general survey of all police functions and responsibilities
   7. On-the-job training.
      a. riding with a training officer
      b. orientation with the functions of all Divisions
   8. Probation
      a. a trial, test and training period
      b. gives the department time to evaluate
      c. can be dismissed without cause
      d. usually 18 months
   9. Continuous training throughout police service.
      a. roll call training
      b. colleges
      c. seminars and institutes
      d. training programs and literature on changing laws, policy and methods

II. Law Enforcement Structure
   A. Executive Branch of Government (Federal)
      1. U.S. Department of Justice
         a. attorney general, chief legal officer of government
         b. F.B.I. investigates all federal crimes not specifically assigned to other agencies; espionage, counterespionage, sabotage and subversive activities
      2. Imigration and Naturalization Service
         a. Border Patrol
      3. C.I.A.
      4. State Department
         a. has a security department that covers passport and visa applications
      5. Treasury Department
         a. Coast Guard is responsible for maritime law enforcement, safety, and port security
         b. Bureau of Customs is responsible for smuggling violations and collecting tariffs
         c. Internal Revenue Service

(1) Intelligence Division enforces internal revenue violations
(2) Alcohol, Tabacco and Firearms Division enforces laws relating to bootleg whiskey and tabacco and firearms tax

d. Drug Enforcement Agency enforces federal narcotics laws including the control of legal drug manufacture
e. Secret Service is responsible for the protection of the President, investigating counterfeiting violations, and all other laws under Treasury jurisdiction

6. Department of Defense
   a. investigates espionage, counterespionage, subversion and sabotage involving delimitation agreements
   b. Army Intelligence
   c. Naval Intelligence
   d. Air Force Investigation
7. Post Office Department
   a. postal inspectors enforce postal laws and regulations
      (1) lotteries
      (2) extortion through the mails
8. Department of the Interior
   a. has investigators and enforcement in each of its branches:
      (1) Fish and Wildlife Service
      (2) Bureau of Indian Affairs
      (3) Bureau of Mines
      (4) National Park Service
9. Department of Agriculture
   a. enforces laws involving farms and consumer protection
10. Department of Labor
    a. enforces the wage laws and fair labor acts
11. Other agencies with investigative powers:
    a. Federal Aviation Agency
    b. Civil Service Commission
    c. Federal Power Commission
    d. Federal Communications Commission
    e. Federal Trade Commission
    f. Interstate Commerce Commission
    g. Securities and Exchange Commission

UNIT IV

POLICE ISSUES

The purpose of this unit is to provide the student with an overview of key issues facing modern law enforcement agencies, and to enable him or her to make informed judgements on these issues. Many of the topics covered herein pertain specifically to the Waterford Police Department and are provided as examples. The user of this document is encouraged to carefully consider each issue presented and to make appropriate substitutions.

A GIRL IS MURDERED

DATE: March 13, 1964

TIME: About 3:20 a.m.

PLACE: Queens, a part of New York City

Catherine Genovese, age 28, was coming home from work, she parked her car about 100 feet from her apartment house. A man stood near the parking lot, Catherine was afraid. She walked toward a police call box. The man came up behind Catherine. He raised a knife and stabbed her. Catherine screamed, "Oh my God, he stabbed me."

"Please help me."

A man threw open a window in an apartment house across the street. He called out, "Let that girl alone."

Other windows were raised. The man who had stabbed Catherine got into his car and drove away. Then the windows were closed.

The man returned. He stabbed Catherine once more. Catherine cried out in agony, "I'm dying, please, I'm dying."

Windows were opened. The man got into his car and drove away, and again the windows were closed.

Catherine staggered to the back of an apartment building. A few minutes later the man returned. He found Catherine lying at the foot of the stairs. He stabbed her a third time - and killed her.

At about ten minutes to four that morning, the police got their first call from a man who had seen the murder. The police arrived in two minutes. It was hard for them to believe what had happened.

For more than 30 minutes, 38 people had watched a woman being slowly murdered. Not one of the 38 tried to help Miss Genovese. Not one of the 38 even picked up the phone to call the police while she was alive.

Because the killer had three chances to finish his job of murder, Catherine died. If the police had been called after the first attack, Catherine might still be alive now.

Reporters asked the 38 people why they hadn't helped Catherine. What did they say?

"I was tired, I went back to bed," said one man.

"We were afraid to call the police," said one man and his wife.

"I don't know," a woman said.

"I didn't want to get involved," said another.

"Leave me alone," said still another.

At 4:25 a.m., an ambulance came for the body. The people came outside. Then the ambulance left. The watchers went back upstairs.

The story appeared in the newspapers. Readers could not believe what had happened. They asked, "Why didn't one of the 38 lift a phone to help a dying girl? Why did they close their windows?"

Many people tried to explain. here are two explanations:

George Serban, a psychiatrist, said: "People do nothing because they feel that city life is unjust. They feel they will get hurt if they act. They feel that whatever they do, they will be the ones to suffer."

A.M. Rosenthal, the New York Times editor who wrote a book about the murder said: "Everyone hunted for someone to blame. To my amazement, many people blamed the police. But I began to believe that the target for blame was in our own mirrors."

T.V. COP POLL

PURPOSE: To assist students in identifying the roles and functions of police in our society.

PROCEDURES:

1. Distribute T.V. Cop Poll, Resource Sheet 16

2. Students are to individually, or in small groups, list police shows in the order they think the programs are most true-to-life.

3. After they finish, explain that actual Florida police, who are real experts in the field, were also polled. Then read off the results below and have your students score themselves against expert police rankings. Subtract the "your ranking" column number for each program from the "police ranking" column number and add up the differences. The best possible score would be "0" - no difference.

   Police rankings:

   1. Police Story
   2. Adam 12
   3. Barney Miller
   4. Chips
   5. Hawaii Five-0
   6. Baretta
   7. Police Woman

4. After you have finished the scoring, lead a class discussion based upon the following questions:

   a. Do you think most young people feel that officers are like those depicted in the T.V. shows?

   b. Have you ever seen a police program in which the officers either broke the law themselves or didn't follow correct procedures?

   c. Do you think T.V. is harming the public's image of law enforcement?

MATERIALS: T.V. Cop Poll Handout

T.V. COP POLL

How true-to-life are police T.V. programs? What do you think? Some law enforcement officers in Florida have already rated seven shows for realism. Why don't you fill in the poll and then the class can compare your ratings with theirs. Put a "1" next to the show you think is most realistic. Then a "2" next to the second show and so on, till you have a rating for all seven T.V. programs.

T.V. POLICE PROGRAMS	YOUR RATING	POLICE RATING
ADAM 12		
BARNEY MILLER		
POLICE STORY		
BARETTA		
POLICE WOMAN		
CHIPS		
HAWAII FIVE-0		

MAJOR PROVISIONS OF

CONNECTICUT'S ALCOHOLISM AND INTOXICATION TREATMENT ACT

"Statement of Purpose: To implement the governor's budget recommendation that the problems of alcoholism and public intoxication be approached from a public health standpoint rather than as a matter of criminal law."

Section 1 consists of the following basic declaration of policy:

> "It is the policy of this state that alcoholics and intoxicated persons should not be subjected to criminal prosecution because of their consumption of alcoholic beverages but rather should be afforded a continuum of treatment in order that they may lead normal lives as productive members of society."

Section 2 contains 16 definitions. The following three are of particular importance:

> "Alcoholic means a person who habitually or periodically lacks self-control as to the use of alcoholic beverages to the extent that his health is substantially impaired or endangered or his social or economic function is substantially disrupted."

> "Incapacitated means a condition of intoxication caused by use of alcohol in which the person is unconscious, or unable to speak coherently, or unable to control body movements in a coordinated and effective manner."

> "Intoxicated person means a person who has alcohol in his blood stream in sufficient quantity to produce substantial impairment of mental or physical functioning. A blood alcohol level of 0.10 percent shall create a presumption that the person is intoxicated."

Section 3 and 4 establish an interdepartmental council, the Connecticut State Alcohol Council, as the single state agency for the preparation, development, and implementation of the state alcohol plan. This Council includes the Commissioners of Mental Health, Correction, Motor Vehicles, Personnel, State Police, Transportation, Welfare, Labor, the Secretary of the State, Board of Education, the Chief Judge of the Circuit Court, the Director of the Commission on Hospitals and Health Care, the Chairman of the Liquor Control Commission, the Director of Probation, and the Executive Director of the Planning Committee on Criminal Administration. The Commissioner of Mental Health is the Chairman.

These sections also establish a Connecticut State Alcohol Advisory Council consisting of the following persons appointed by the Governor: two physicians representing the Connecticut State Medical Society, two psychiatrists representing the Connecticut District Branch of the American

Psychiatric Association, two attorneys representing the Connecticut Bar Association, one representative of the Connecticut Hospital Association, three persons representing community programs dealing with alcoholism and intoxication, and three electors of the state including at least two persons representing minority or poverty groups. The function of the Advisory Council is to advise the Council in the development of the state alcohol plan. (The commissioners who compose the State Alcohol Council shall also serve on the Advisory Council on an ex officio basis.)

Section 5 provides for Executive Director of the Council appointed by the Governor with recommendation of the Council.

Section 6 outlines the powers and responsibilities of the Department of Mental Health in establishing and carrying out programs for alcoholics and intoxicated persons.

Section 7 outlines further the powers and responsibilities of Department of Mental Health and states that the programs of the Department shall be consistent with the state plan and shall include emergency, inpatient, intermediate, outpatient, and follow-up services.

Section 8 requires the Department of Mental Health to establish standards for and to license alcoholism treatment facilities.

Section 9 authorizes the Department of Mental Health to establish regulations for treatment programs and these regulations should emphasize voluntary rather than involuntary treatment, outpatient rather than inpatient treatment. The regulations should also require that an individualized treatment plan be prepared and maintained for each patient and establishes the patient's right to be admitted for treatment even if he has previously withdrawn against medical advice. Finally, this Section requires the Department of Mental Health to establish regulations to ensure that there be a continuum of coordinated treatment services.

Section 10 provides for the voluntary treatment of alcoholics and allows any person to come to a public treatment facility.

Section 11 provides that intoxicated persons may come voluntarily to public treatment facilities or may be brought on a voluntary basis to such facilities, medical facilities, or to their homes by the police.

Section 12 authorizes the police to take an incapacitated person into protective custody and bring him to a medical facility. This Section makes clear that this is not an arrest. The Section provides that such incapacitated persons must be released within 48 hours unless presented to the Circuit Court or unless they waive such presentment. The Section also allows a police officer at his discretion to take an intoxicated person who is charged with a non-violent felony to a medical facility. Such persons, however, would be

released to police authorities when they were no longer intoxicated.

Section 13 provides for commitment by court for a period not to exceed 7 days from date of original admission to the medical facility for further diagnosis and treatment. This section applies to those who are incapacitated and who after 48 hours of treatment remain in danger and refuse to remain in the facility on a voluntary basis.

Section 14 provides for emergency commitment procedures by a physician certificate for intoxicated persons who are dangerous to others or are incapacitated by alcohol for a period of 3 days.

Sections 15, 16, and 17 provide for civil commitment by the Circuit Court of dangerous or incapacitated persons for up to 30 days but allows the facility to discharge the person earlier if appropriate. These Sections also carefully detail procedures for commitment, provide for the possibility of recommitment on a time limited basis and require treatment to be "adequate and appropriate".

Section 18 protects the confidentiality of patient records.

Section 19 protects the police who act in compliance with this Act by stating that they are "acting in the course of their official duty and are not criminally or civilly liable therefor".

Section 20 prohibites any political subdivision of the State from adopting any law making public intoxication or any related condition the subject of a criminal or civil penalty. Laws and regulations related to drunken driving, however, are not affected.

Section 21 states that the Act shall be applied so as "to make uniform the law with respect to the subject of this Act among those states which enact it."

Sections 22 - 25 contain the various repealer clauses and effective dates for the Act.

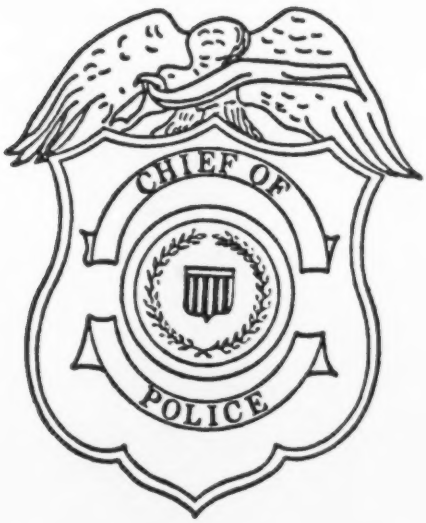
Section 22 repeals 53a-184 of the general statutes under which intoxication is a misdemeanor and section 25 states that the repeal does not become mandatory on a state-wide basis until July 1, 1976. The rest of the Act takes effect on July 1, 1974.

Section 23 states that from July 1, 1974-July 1, 1976 the Council shall advise municipalities as to the availability of medical facilities for treating public intoxicants and municipalities may elect, prior to July 1, 1976, to deal with public intoxication as a health rather than as a criminal justice problem.

Section 24 repeals existing civil commitment statutes relating to alcoholics as this Act contains new commitment provisions in accordance with the Uniform Act.

Section 25 states that the Act shall take effect July 1, 1974, except that section 22 (the repreal of the criminal statute) shall take effect July 1, 1976.

EASTERN CONNECTICUT COUNCIL OF POLICE CHIEFS



PURSUIT POLICY

ADOPTED SEPTEMBER 28, 1978.

GENERAL CONSIDERATIONS AND GUIDELINES

As defined in Public Act 78-372, "Pursuit refers to an attempt by a police officer in an authorized emergency vehicle to apprehend one or more occupants of another moving motor vehicle, when the driver of the fleeing vehicle is attempting to avoid apprehension by maintaining or increasing his speed or by ignoring the police officer's attempt to stop him."

The authority of a law enforcement officer to engage in pursuit stems from his duty to apprehend those persons who have committed or are committing a law violation. The freedom to pursue law violators must be available to police departments since it plays a vital part in deterrent and crime control responsibilities. Furthermore, it would not be in the best interest of public safety to encourage the dangerous fleeing criminal to proceed without the imminent possibility of policy intervention.

Pursuit must be considered, however, a very serious matter. When a police officer initiates pursuit of a fleeing vehicle, he may have a tendency to consider only himself and the occupants of the fleeing vehicle. This is not adequate. It must be remembered that other citizens using public highways do not expect their travel to be interrupted by a police chase and may become involved in an accident due to overreaction.

Police officers shall make every reasonable effort to apprehend a fleeing violator, but pursuit should not be carried to such an extent as to appreciably endanger the lives of innocent users of our streets and highways, or the officer himself.

It is policy THAT AN OFFICER SHOULD TERMINATE AN AUTOMOBILE PURSUIT WHENEVER THE RISKS TO HIS OWN SAFETY AND THE SAFETY OF OTHERS OUTWEIGH THE DANGER TO THE COMMUNITY IF THE SUSPECT IS NOT IMMEDIATELY APPREHENDED. In such cases, a police officer shall attempt to obtain sufficient information to effect future apprehension of the suspect.

As a general rule, pursuit is not recommended or favored when the potential danger to the officer and general public outweighs the potential advantage of apprehending a fleeing vehicle by such means. Stated simply, pursuit is clearly inappropriate when the pursuit itself endangers life more than the escape of the person pursued. Delay may also be the wiser choice when the person is known and he or she poses no immediate threat to the community.

The seriousness of the possible outcome of a pursuit commands a police officer to weigh many factors when deciding whether or not to chase in the name of the citizens he is serving. Some of the specific questions officers must ask themselves when deciding whether or not to pursue include:

1. Nature of the offense

2. Time of day - 12:00 noon, 4:30 p.m., 1:30 a.m.

3. Weather conditions - clear, rainy, foggy

4. Road conditions - bumpy, sharp turns, hills, many intersections

5. Traffic conditions - both vehicular and pedestrian, heavy

6. Geographic location - school zone, hospital zone

7. Population density - dense with many children playing in the area

8. Familiarity with the area

9. Vehicle capability and reliability.

If a pursuit is deemed necessary and is instituted, then a continuing reconsideration of the above factors should be made by the officer. Once made, the decision to pursue is not irrevocable. The experience and common sense of each officer and his knowledge of the area should also guide him in his decision.

If pursuit is undertaken, each officer is strictly responsible for observing the specific procedures that follow.

PROCEDURES

1. If at all possible, especially when the situation involves traffic violators or other misdemeanants, the police officer should take preventive measures in an attempt to avoid a continuing chase by immediately obtaining the attention of the occupant(s) of the vehicle so that he may choose to stop.

   a. The officer shall utilize the vehicle horn or siren, and activate the emergency dome lights. In the nighttime, care should be taken not to blind oncoming traffic.

   b. If the foregoing fails, he shall use the dome lights and siren.

   c. If necessary, when road and traffic conditions permit, the officer may pull alongside the other vehicle momentarily and signal the driver to pull over.

2. A continuing pursuit (over a greater distance and for a longer period of time) is authorized when the pursuing officer has reasonable grounds to believe that an individual clearly exhibits an intent to avoid arrest by using his motor vehicle to flee.

   It is important that an officer weigh the seriousness of the offense which has been committed against the hazards present to the health and welfare of citizens that might be affected

by the chase. If pursuit is initiated, a continuous balancing of seriousness versus public safety is mandatory.

a. As soon as the operator of a pursued vehicle increases his speed or drives in such a manner as to endanger the safety of others, the pursuing officer shall immediately activate both siren and emergency dome lights, and shall use both throughout the entire pursuit. The purpose of the lights and siren is primarily to warn motorists of unusual vehicular movements. Each officer should recognize that a loud siren may cause some motorists to panic and over-react, thereby creating, or adding to, a dangerous situation.

3. Upon commencing pursuit, the officer shall maintain continual communication with the dispatcher and communicate the following information:

   a. Identity of the officer's unit

   b. Description of the vehicle and/or occupants

   c. The exact location and direction of travel

   d. Reason for pursuit.

   While the pursuit officer is transmitting information to the dispatcher, he shall keep his voice as normal and coherent as possible. In the case of a two officer police vehicle, the officer in the passenger seat should handle the radio transmissions. Units that have witnesses, suspects, or complainants as passengers, shall not become engaged in pursuit situations, until they discharge such passengers.

4. Primary command responsibility of a pursuit shall rest with the Shift Command Officer on duty. The shift commander may at any time order the termination of a pursuit at any stage of the incident.

   a. If an officer receives a communication from the dispatcher that the chase be terminated, he shall do so immediately, reporting to the dispatcher the final location and direction of travel of the pursued vehicle at the time of termination.

   b. The pursuing officer shall voluntarily terminate pursuit if he determines that the safety of the public, conditions of the road, weather, traffic or other factors so necessitate. He shall notify the dispatcher of his decision and relay the final location and direction of travel of the pursued vehicle at the time of termination.

5. In the course of pursuit, a reasonable distance shall be maintained between cars, as this will enable the pursuing officer to duplicate any sudden turns and lessen the possibility of a collision in the event of a sudden stop.

6. When it is anticipated that the pursuit will enter another jurisdiction, the appropriate police department will be notified, if possible, furnishing all pertinent information.

7. Only one direct police pursuit vehicle is recommended, however, the Shift Command Officer may send an additional unit to assist in the pursuit. A chase should never involve more than two (2) carravaning police vehicles, including the initial pursuit vehicle. Both police pursuit vehicles should keep a good distance apart to avoid multiple collisions involving all vehicles.

8. Should an officer continue with a pursuit, there are three forceful alternatives to be utilized in only the most extreme emergency for terminating the pursued vehicle's progress.

   Boxing In

   a. One Pursuit Vehicle

      Under ordinary circumstances, no one officer should attempt to slow the violator's vehicle from in front by braking his patrol vehicle.

      This places the officer in an extremely vulnerable position and may result in injury to, or the death of, the officer.

   b. Two Pursuit Vehicles

      This technique might be successfully utilized on multilane highways when two patrol vehicles are available to block-off the violator from the front. However, this procedure is also very dangerous and is discouraged.

   Ramming

   a. A vehicle shall only be halted by ramming when the use of deadly force is justified and there is an immediate threat to human life.

   b. Ramming, must be authorized by the Shift Command Officer, and only after all reasonable steps of apprehension have been taken. The risk to officers in ramming is less than to other motorists if the chase continues.

c. The vehicle should be rammed from the side if possible. Striking the vehicle from the front or rear is likely to cause the vehicle to spin out-of-control, possibly resulting in injuries to the officer or innocent citizens.

d. The supervisor must be notified immediately of the results.

Roadblock

a. Officers should have definite knowledge that the person or persons they are pursuing are fleeing to avoid prosecution for a felony before requesting permission to employ such severe measures as hastily improvised roadblocks.

b. Roadblocks must be authorized by the Shift Command Officer. Only a situation wherein the violator constitutes an immediate and continuing serious hazard and all other efforts to effect an apprehension have failed would warrant such drastic action.

c. The improvised roadblock generally consists of the placing of a vehicle or hastily erected barricades across the roadway at some distance ahead of the fleeing vehicle to force a stop. Several cases are on record where improvised roadblocks of this type, due to the lack of sufficient warning, have resulted in serious injury to innocent persons, as well as to the violator. Therefore, each particular incident must be weighed by the officer with this thought in mind. It cannot be overemphasized that hastily improvised roadblocks should ordinarily be avoided. The use of the roadblock is directly associated with the seriousness of the crime, and when a lack of this knowledge exists, it is much better to give the violator the benefit of the doubt rather than to suffer the consequences of a hasty decision.

9. Firearms shall not be discharged by an officer while driving or occupying a vehicle engaged in a pursuit. The only exceptions to this rule would be the following:

a. To defend the officer or others when being fired upon

b. When the occupants of the vehicle being pursued have committed a felony in which deadly force was used, that the officer has personal knowledge or positive information that the occupants are the actual offenders, that their immediate apprehension is necessary for public safety, and that there are no other means available to prevent their escape and secure their arrest.

For the above exceptions, every precaution shall be taken to ensure the safety of the general public in the vicinity. Do not attempt to use a firearm to try to either deflate the suspect's vehicle tires or to use the firearm for warning shots.

10. An officer who participates in a pursuit shall at the end of his tour of duty submit the appropriate reports.

11. These procedures and guidelines are to be followed in conjunction with all relevant existing statutes, by-laws, ordinances, departmental policies and procedures, rules and regulations.

REVIEW BOARD

The Eastern Connecticut Council of Police Chiefs shall appoint from their membership a panel which shall serve as the Pursuit Review Committee. When it is determined by the chief of police in a municipality that further review of a pursuit incident is required, the committee shall be empaneled for the purpose of reviewing the incident and making its findings and recommendations available to the requesting municipality.

THE CRIME GAME

Your task is to work as a team, using the various clues provided, and figure out the answers to the following questions:

1. Who was the killer?
2. Motive? Why was the crime committed?
3. Weapon?
4. Who was killed?
5. Where was the crime committed?
6. When?

Each of you will be given a few of the clues:

When he was discovered dead, Mr. Kelley had a bullet hole in his thigh and a knife would in his back.

Mr. Jones shot at an intruder in his apartment building at 12:00 midnight.

The elevator operator reported to police that he saw Mr. Kelley at 12:15 a.m.

The bullet taken from Mr. Kelley's thigh matched the gun owned by Mr. Jones.

Only one bullet had been fired from Mr. Jones' gun.

When the elevator man saw Mr. Kelley, Mr. Kelley was bleeding slightly, but he did not seem too badly hurt.

A knife with Mr. Kelley's blood on it was found in Miss Smith's yard.

The knife found in Miss Smith's yard had Mr. Scott's fingerprints on it.

Mr. Kelley had destroyed Mr. Jones' business by stealing all his customers.

The elevator man saw Mr. Kelley's wife goto Mr. Scott's apartment at 11:30 p.m.

The elevator operator said that Mr. Kelley's wife frequently left the building with Mr. Scott.

Mr. Kelley's body was found in the park

Mr. Kelley's body was found at 1:30 a.m.

Mr. Kelley had been dead for one hour when his body was found, according to the medical examiner working with the police.

The elevator man saw Mr. Kelley go to Mr. Scott's room at 12:25 a.m.

The elevator man went off duty at 12:30 a.m.

It was obvious from the condition of Mr. Kelley's body that it had been dragged a long distance.

Miss Smith saw Mr. Kelley go to Mr. Jones' apartment building at 11:55 p.m.

Mr. Kelley's wife disappeared after the murder.

When police tried to locate Mr. Jones after the murder, they discovered that he had disappeared.

The elevator man said that Miss Smith was in the lobby of the apartment building when he went off duty.

Miss Smith often followed Mr. Kelley

Mr. Jones had told Mr. Kelley that he was going to kill him.

Miss Smith said that nobody left the apartment building between 12:25 a.m. and 12:45 a.m.

Mr. Kelley's blood stains were found in Mr. Scott's car.

Mr. Kelley's blood stains were found on the carpet in the hall outside Mr. Jones' apartment.

ANSWERS:

K: Mr. Scott with Mrs. Kelley as a accessory
M: Get rid of husband W: Knife
Who: Mr. Kelley Where: Mr. Scott's apartment
When: Between 12:30 and 1:30 a.m.

THE CONSTITUTION OF THE UNITED STATES

There is evidence to indicate that only a very small fraction of American citizens have any knowledge of the United States Constitution or the Bill of Rights - their constitutional freedoms.

On March 4, 1789, the Constitution of the United States became the law of the land, thus creating the first modern government consisting of a national government and state governments. The Constitution spells out the fundamental positive law of the land and also lists and guarantees personal rights, which are restraints on both the national and state governments.

The application of constitutional protections does not fluctuate according to our political, social, economic or religious preferences. This means that the Black Muslim and the Jehovah Witness have the same equal rights under the law as do the Presbyterian and the Jew. It means that the most energetic civil rights demonstrator is entitled to the same constitutional safeguards as is the wealthiest industrialist.

PREAMBLE

"We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

ARTICLE 1 - Establishes Legislative Branch of Government

The legislative powers to be vested in a congress, consisting of a Senate and a House of Representatives. This article goes on to list the qualifications, methods of selection, methods of impeachment, compensation, privileges and duties of these two bodies. It also explains how laws are to be enacted, what limitations on power are granted to the Federal Government and what powers are prohibited to the states.

ARTICLE 2 - Establishes the Executive Branch of Government

The executives powers to be vested in a president. This article then spells out the president's term of office, the method of selecting the present and a vice president, what the president's powers and duties are, and the method of impeachment.

ARTICLE 3 - Establishes the Judicial Branch of Government

The judicial power shall be vested in one supreme court, and in any inferior courts that the congress may establish. This article explains the jurisdiction of the United States courts and inferior courts. Treason is defined, as is the method of convicting for treason, and the punishment for treason.

ARTICLE 4 - Explains Relationship of States and Federal Government

Establishes the full faith of the Federal Government in all acts or judicial proceedings of the states. Lists the privileges of the citizens of each state and how fugitives from justice and service are to be dealt with. Also explains method of admitting new states to the union, and guarantees federal protection to the states.

ARTICLE 5 - How Amendments to the Constitution Are Proposed and Adopted

Lists methods of introducing and ratifying amendments to the constitution.

ARTICLE 6 - General Provisions

All debts entered into by the United States prior to the adoption of this Constitution shall be binding. Establishes the Constitution to be the supreme law of the land. Requires oath of allegiance for certain public offices, but forbids a religious test as a qualification for office.

ARTICLE 7 - Ratification of the Constitution

Explains method of ratifying the constitution.

BILL OF RIGHTS

The first ten amendments to the Constitution, adopted December 15, 1791, are commonly referred to as the Bill of Rights. These amendments were the price of ratifying the Constitution as set by the states at that time.

The Bill of Rights is a declaration of individual rights reserved in the Charter of Government to safeguard the welfare of the free people. It contains only 462 words and can be read in just a matter of minutes, but is the heart of the constitution. The first eight amendments really set up the personal rights and can be called a "Bill of Don'ts," or a series of prohibitions on the government. The 9th and 10th amendments are general rules of relationship between the state and national governments. It is interesting to note that this series of prohibitions apply to governmental agencies, but does not restrain the actions of private citizens.

The people of the United States, at the time of ratifying the Constitution, had just gone through an era of government oppression by the British, and demanded these certain safeguards be built into their new government to prevent this oppression from ever happening again. Often, doubt has been expressed whether the Constitution could have been adopted without various gentlemen's agreements that a bill of rights would be added to the Constitution.

FIRST AMENDMENT: Restrictions on Powers of Congress

Congress shall not abridge or deny:

1. Freedom of religion
2. Freedom of speech
3. Freedom of the press
4. Right of people to peaceably assemble and to petition the government for a redress of grievances.

SECOND AMENDMENT: Right To Bear Arms

The people have a right to keep and bear arms.

THIRD AMENDMENT: Billeting of Soldiers

No soldiers, in time of peace, can be quartered in a house without consent of the owner. In time of war, it must be done in a manner prescribed by law.

FOURTH AMENDMENT: Searches, Seizures and Warrants

The people have a right to be secure in their persons, homes, papers and effects against unreasonable searches and seizures; and no warrants may be issued but on probable cause, supported by oath, particularly describing the place to be searched, and the persons or things to be seized.

FIFTH AMENDMENT: Criminal Proceedings

No person shall:

1. Be subject to double jeopardy
2. Be compelled to witness against himself
3. Be deprived of due process of law
4. Have private property taken from him for public use, without just compensation.

SIXTH AMENDMENT: Method of trial in Criminal Proceedings

The accused shall:

1. Have a right to a speedy and public trial, by an impartial jury
2. Be informed of the charges against him
3. Be confronted with the witnesses against him; and be able to obtain witnesses in his favor
4. Have the assistance of counsel for his defense.

SEVENTH AMENDMENT: Trial by Jury

The people have a right to a jury trial in all common law suits exceeding $20.

EIGHTH AMENDMENT: Bails - Fines - Punishments

Excessive bail shall not be required. Excessive fines or cruel and unusual punishments shall not be inflicted.

NINTH AMENDMENT: Certain Rights Not Denied to the People

TENTH AMENDMENT: States Rights.

Currently, there are 26 amendments to the Constitution of the United States. In addition to the Bill of Rights previously listed, there are certain others of these amendments which have had an effect on the police powers and the court proceedings. These are:

FOURTEENTH AMENDMENT: July 9, 1868 Citizen's Rights

1. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States
2. No State shall deprive any person of life, liberty, or property without due process of law
3. No State shall deny to any person within its jurisdiction the equal protection of the laws.

EIGHTEENTH AMENDMENT: January 29, 1920 Prohibition

Prohibits the manufacture, sale, transportation, importation or exportation of intoxicating liquors within or from the United States and its territories.

TWENTY-FIRST AMENDMENT: December 5, 1933 Repeal of Prohibition

Repeals the Eighteenth Amendment.

SUMMARY

Close examination of the police and court procedures and the judicial process will reveal that all of these amendments have had an impact on the day-to-day process of law, and that these ideals are not just words on paper. Every

time an arrest is made, or every time a police officer searches for or seizes evidence, his actions will come under the scrutiny of the court to see if he acted within the boundaries of the Constitution and its fair interpretation.

Every time a person finds himself in an arrest situation, he can be assured that he will be subject to a fair and due process of law.

* Excerpts from INTRODUCTION TO LAW ENFORCEMENT by A.C. Germann, Frank Day, and Robert Gallati, 1966; and THE UNITED STATES AND CALIFORNIA CONSTITUTIONS, by the California Legislature Assembly, 1971

CONSTITUTION QUIZ

(Answer on a Separate Sheet of Paper)

1. As defined by the Constitution of the United States, the government is established in how many branches?

   a. 1
   b. 2
   c. 3
   d. 4

2. The Bill of Rights consists of how many amendments to the Constitution?

   a. 8
   b. 10
   c. 26
   d. None of the above

3. The Constitutional amendment which deals with unreasonable searches and seizures is the:

   a. 2nd
   b. 3rd
   c. 4th
   d. 5th

4. The Constitutional amendment which deals with double jeopardy is the

   a. 5th
   b. 8th
   c. 10th
   d. 14th

5. The Constitutional amendment which deals with the due process of law is the:

   a. 1st
   b. 7th
   c. 11th
   d. 14th

6. In your studies of, or personal contacts with, the police and the courts, do you agree or disagree with the SUMMARY of this text? Explain your answer.

THE EVOLUTION OF LAW IN GENERAL

PRIMATIVE LAW

The roots of our American laws and procedures for enforcing them can be found in the dawn of recorded history, 9,000 B.C., the turning point in the evolution of mankind. This age of the Neolithic man made great strides in the areas of crop raising and cattle breeding. This revolution in the struggle for survival brought about the establishment of permanent villages and an assurance of substance and a chance for economic surplus.

The priests of the tribe or group freed themselves from the daily struggle by taking charge of the surplus. In payment for this, they exercised a temporal control or power over the community, since the surplus was used to pay for the general community work. This was in addition to their religious powers.

Soon another class came into being -- the warrior. The ever increasing wealth which was spread over the countryside had to be protected from raiding marauders. This essential function was performed by professional warriors who eventually became the warrior/noble class who took over the secular functions of the community. This group chose one of their group as chief and called him "king."

About the year 2,100 B.C. the ancient Sumerians, who lived in the cradle of civilization along the Tigris and Euphrates rivers, set forth the first system of written law. This system of written law was known as the Code of Hammurabi. This tireless administrator concerned for his subjects brought about a collection of the customs of the times concerning the law. He caused all the laws to be codified. This code was inscribed on a pillar which stood in the courtyard of the temple for all people to read.

This code was based on the principle of "an eye for an eye, a tooth for a tooth and a bone for a bone." It covered marriage and divorce, commerce, debtors and creditors as well as setting down punishments for certain crimes such as sorcery, perjury, incest, adultery, and various acts of treason. Based on the principle "retribution in kind" -- if a man caused a woman to have a miscarriage as a result of which she died, his daughter was put to death. If a man was killed as a result of a collapse of a defectively built house, the builder was slain. If a physician performed a careless operation, his hands were cut off. The written word was better protection against conflicting customs, but it was powerless to save the weak from the oppressions of the strong.

The next famous codification of laws was the Ten Commandments, given to the Jewish people by Moses around 1,200 B.C. These Commandments are woven into the fabric of Western society. Their precepts are written into many of our laws. The Code of Hammurabi was conditional, ie; if a man steals -- etc.; while the Ten Commandments are imperative, ie; you shall not steal.

GREEK DEMOCRACY

The ancient Greeks developed a philosophy that is still expressed today -- a country should be ruled by law, not by men. The Greeks had well understood laws of property, contracts and commerce generally. They

also started to try legal cases before citizens whom they called jurors. Among the Greeks was a man called Solon who gave the first code of law which was not the decree of a king but was enacted upon the people themselves. Solon, a name given to all lawmakers, shifted the emphasis from the written word to the method of administrating the law. Under Solon, reforms were instituted that gave peasant and tyrant, alike, a voice in the Acropolis. (Tyrant was a member of the money class so it can easily be seen how the word came to connote evil.) The Athenian judicial system was the very foundation of Greek democracy, and it realized in full the potentialities of the reforms of Solon, the father of Greek democracy.

ROMAN LAW

As the Greek culture gave way to the Roman, these basic but simple roots merged into a more complete and carefully formulated body of law. The Romans, like the Greeks, rid themselves of their kings early in their history. The administration of justice was dominated by a priestly class called "Pontiffs", who alone professed to the ancient laws. The continuing struggle, to publicize the law, between the Patricians and the Plebeians came to an end in 450 B.C. with a written code of law called the Twelve Tables. These laws covered debtors and creditors; the power of the father over his children was absolute and enduring for his lifetime; a nocturnal thief, as well as a daytime thief, caught in the act may be slain. This system of barbarian usage was converted in the course of six centuries into a highly subtle and complex system of jurisprudence. This produced the Advocates and Juris-consults, the forerunner of the modern legal profession.

Gaius, one of these Roman jurists, left his mark in legal history in 161 A.D. He wrote four books called the "Institutes", the textbook for lawyers. These institutes concerned civil and natural law, divisions of the law as to persons, to things, and to actions. Concern for the condition of men, slave or free -- the treatment of slaves, surrender of enemies, citizenship, the distinction between real and personal property -- was also in the institutes as was a classical formulary system.

Some nine hundred years later, in 529/533 A.D., Justinian, Emperor of the Byzantine Empire, compiled a "Digest". This Digest of Justinian became part of the Roman's contribution to legal history -- the Corpus Juris Civilius. This body of civil law which was a collection of principally the Institutes of Gaius, the Digest, the Code, and the Novel, reflected the influence of the Church by increasing the punishment for certain crimes. As the Roman Empire gradually fell apart, much of the Roman law became canon law of the Roman Catholic Church.

ENGLISH LAW

Its beginnings are lost in the misty history of the Insular Isle (England), which was scarcely touched by the influence of the Roman Empire even though the Romans ruled England for four hundred years. The greatest effect on the customs and habits of England came from the invaders who remained and intermarried with the local citizens. These local customs became well entrenched. When the Romans left England, the development of the Roman Law and the Justinian Digest was still a hundred years away. Canon Law with its entwined Roman Law did not reach England until 600 A.D. with its conversion to Christianity. The Church

law had a marked influence in English legal history and had acquired its own name -- equity. So strong was this influence that for many years two courts existed in England -- the court of equity, which applied principles of conscience, and the common law courts. The common law is so called because of its application and acceptance by all the people, and it was destined to spread to a large part of the modern world as the law of the colonies. The common law is the result of centuries of judicial determinations. These determinations became common to the country as a whole as a result of usage and long standing acceptance by the people. These decisions laid down mandatory rules of conduct whose breach would constitute a public wrong or crime, and developed broad principles of responsibility and punishment.

In 1066 the last Norman invasion took place, thus freeing the English to develop their own legal system. They won basic rights from King John through an instrument known as the Magna Charta in 1215. This "Charter of Liberties of the English People" as it is called, was a careful revision and reproduction of the old Anglo-Saxon principles and tenents of government which had been suppressed by the Norman conquerors and their immediate successors.

King John, by his continual extortion of money and violation of feudal customs, had aroused the anger of not only the nobility, but also the knights and townspeople, to the point of rebellion. The rebellious barons, supported by serfs and artisans, staged a national reaction. The king was forced to enter into parleys with the barons at Runnymede. On June 15, 1215, King John placed his seal on the document. The charter provided guarantees for freedom of the church and the customs of the tuns (towns). It implies that there are laws protecting the rights of the king's subjects which the king is required to observe. The important guarantees were trial by jury and habeas corpus. It also established the King's Council, a forerunner of the Parliament.

From time to time, acts of Parliament were relied on to define specific crimes and establish penalties. Judges and Parliament made British law in bits and pieces. This, then, is the common law: customs, traditions, decisions by judges in specific cases and acts of Parliament.

There were three decisive figures in the history of the English law, King Edward Plantagenet, Thomas Egerton, and Sir Edward Coke. The first of the triad was Edward Plantagenet, born at Westimister on June 17, 1239. As Edward I, he reigned from 1272 to 1307. In 1275, the first period of Edward's reign, he enacted "The Statutes of Westminister". This was the start of a movement to strengthen the powers of the crown by judicial and clear definition of its privileages. The first enactment was primarily to improve the details of administration and gave the king a grant of permanent customs and revenue on imports and exports. "The Statute of Winchester", considered the second greatest legislative act, was passed in 1285. It revised the organization and armament of the militia and provided a useful police force for the repression of disorder and robbery. Thus, the first police patrol was established, the Watch.

Almost three hundred years passed before legal history was again effected by the influence of man. The next two men of the triad were Thomas Egerton, born in 1540, who became Keeper of the Great Seal, and Sir Edward Coke, born 1552, who became Chief Justice of the Court of Common Pleas. Both men were started on their ascent by Queen Elizabeth I. Thomas Egerton came to the attention of the Queen while he pleaded a case against the Crown, which he won. She appointed him one of her

counsel and he rose to be the Keeper of the Great Seal, which made him, in effect, her Lord Chancellor. Sir Edward Coke, also a lawyer, won fame in his first case and Elizabeth made him her Solicitor General.

By 1616, Egerton, now Lord Ellesmere, by the grace of James the First, had control of the judicial system, and its functioning was scandalous. Egerton followed King James' hostile attitude and virtually closed the Court of Chancery to arguments against the Royal Prerogative. He also mirrored James' hostility toward puritans.

Sir Edward Coke, for his service to the Crown, was made Chief Justice of the Court of Common Pleas. The struggle of Coke as a judge was to vindicate and preserve the jurisdiction of the Courts of the Common Law against the encroachments of the Court of Chancery (equity). He resisted James' attempts to establish a claim to personal government and defended the Common Law. When the office of the Chief Justice of the King's Bench was vacant, the King "promoted" Coke. While the King's Bench took precedence over the Common Pleas, the emoluments were much less; and Coke had to dip into his own personnal accounts to meet some related expenses. Coke became more arrogant than ever and began calling himself the "Lord Chief Justice of England."

It was Coke who gave new life to the dormant Writ of Habeas Corpus -- he struck a keynote -- "No restraint be it ever so little but is imprisonment." His fight was for the end of the arbitrary power of the Crown. The Parliament of 1628 adapted the famous Petition of Rights as another article of fundamental law, a handiwork of Coke's, second only to the Magna Charta. This work is based upon earlier charters and statutes securing recognition of four basic principles: taxes may not be levied without the consent of Parliament; no person could be imprisoned for refusing to make payments which had not been legally established by Parliament; no person could be imprisoned for any offense without cause and without an opportunity to answer the charges; soliders and mariners could not be housed in the homes of the citizenry and martial law may not be used in peace time. This action advanced the time when the powers of the king were curbed.

Sir Edward Coke is the greatest hero of the constitutional struggles which were fought in England in the sixteenth and seventeenth centuries. The fruits of these struggles were the basic civil liberties which have everywhere become the foundation of democracy. Centuries of uninterrupted legal development had created a strong professional tradition and santified the position of the Common Law. The running battle between the Common Law Court and the Crown during the 1600's, which was actually between Coke, the Chief Justice and Egerton, the Lord Chancellor, came to an end with the victorious Common Law becoming the law of the land; this was in 1688.

Coke's dream of judicial supremacy was relaized in the wilderness of America. Sixty years before the victory of the Common Law, those Englishmen disagreeing with the Crown left for the colonies of the new world. They took with them the Common Law and the philosophy of the Magna Charta with its basic ideology of the supremacy of law -- "No freeman shall be taken, or imprisoned, or disseized, or exiled, or in any way destroyed, nor shall we go upon him, nor send upon him, except by the lawful judgement of his peers, or by the law of the land." They also brought with them the philosophy of Sir Edward Coke; the basic philosophy of man's right to be free of the King's injustices as: imposition of unlawful debts upon persons or the billeting of soldiers in times of peace.

This philosophy of the rights of man became the fundamental law of the new world. First in the Fundamental Orders of the Connecticut Colony in 1638 and later in the Constitution of the United States. The pattern of constitutional government, a system of checks and balances, consisting of three branches; the Executive, the Legislative, and the Judicial has been maintained in our state.

The Common Law system has been well established in the four hundred years between 1215 and 1620, when the Pilgrims landed on Plymouth Rock. In the early years of our American colonies, the legal experiences differed considerably according to the background of the settlers. Lawyers were few; important cases were decided in London. Nevertheless, it is fair to say that the Common Law became the most important single factor of our American legal system. The important thing to remember about the Common Law as it affects us today is that in talking about "the law" we are really talking about two kinds of law: case law and statutory law. Case law is based on the decisions of courts in similar situations. It comes down to us in the form of written court decisions. The principles set forth in these decisions must be applied again and again to the particular facts in the particular case before the court. The early decisions embody principles of law called "precedents." Statutory law, on the other hand, comes in the form of written laws whose exact words have been set down and approved by a legislature. These statutes we refer to as the "laws" of the nation, state or city.

THE NATURE OF LAW

The need for law lies in the history of the human race. In the early times, when man lived in caves, law was not necessary because conflicts did not arise. As we saw in the evolution of man, progress was inevitible, stratification brought about different needs and desires. These differences brought conflict. Groups and communities of men living together made law a necessity. Law is a set of regulations which govern the relationship between man and his fellow man, between man and the state. Law was necessary as a means of social control attempting to prevent conflict or to settle them in a beneficial way for the group.

The law is a language, nothing more. A mechanic uses his tools to convert raw materials into a useful product, a lawyer has the law to enable him to communicate and the ability to convey, by words, the uniformity of interpretation in terms understood by both the sender and the receiver. Laws must be stable, yet flexible enough to fit the problems of a complex and changing society. If the law was written to cover only one specific situation, two problems would arise. First, the number of laws would increase a couple of hundred times. Secondly, the legislature would spend most of its time repealing laws that become obsolete almost as soon as they are passed. Our Constitution, prepared two hundred years ago, is just such a stable yet flexible document. This has been evident through the past three decades by the Supreme Court's decisions from labor law violations through segregation, from Gideon through Miranda. The times have changed, but the document has not.

CRIME DEFINED

Not all breaches of the law are crimes, if, for example, the state statute requires two witnesses for a will to be valid, only one witness makes the will invalid, but no criminal charges could be filed. The best way to clarify this point is to state that a crime is a public wrong. It is an act or ommission forbidden by law for which a punishment is attached and prosecuted in the name of the state. Here we see that a crime must be a wrong against the public, not merely against an individual. There are many laws which govern the relationships between men, their rights and duties. However, only those breaches which wrong the public are considered crimes and make up the body of the substantive criminal law.

The determination of whether a breach or a particular act is criminal or just civil in nature is the function of the law-making body of each jurisdiction. Crimes differ from civil wrongs in many respects, but the sole reason they differ is that the legislative body said they differ. Basically, a crime affects the community as a whole, while a civil wrong or tort affects an individual only. A crime has a punishment attached in the form of a fine or imprisonment and is prosecuted in the name of the state. A tort, private in nature, does not involve the state, only the person injured; the penalty is in the form of restitution of damages. This is not to say that the legislature has an "either or" choice. A particular act can be both a crime and a tort as in the case of assault. This type of an act can be prosecuted criminally and used civilly. Both avenues are open and the outcome of one action does not affect the other.

The purpose of the criminal law is twofold. Primarily, it attempts to control the behavior of human beings. Secondly, it protects society, sometimes from itself. Failing in this, the criminal law seeks to sanction uncontrolled behavior by punishing the law violator. This punishment may take one of three forms -- fine, imprisonment or death.

DEVELOPMENT OF CRIMINAL LAW

In the very early development of society, the injury of another became the responsibility of the victim or his family to seek redress. The community in no way became involved. This led to the theory of retributive justice. The Code of Hammurabi, circa 2,100 B.C., solidified the rule which called for punishment to fit the crime: "An eye for an eye."

The evolution of criminal law received a serious setback during the Dark Ages. Despite setbacks, societies began treating offenses as crimes against the soverign, and the state began punishing individuals who committed offenses against the public. This practice became the keystone of modern criminal law.

This period of development failed to take any consideration of the responsibility of the accused. The law did not ask why the accused committed the act, or whether he was accountable for his action. Defenses, as insanity, justification, excuse, intoxication, infancy, and the like, were not considered. These will be covered later individually. The mere doing of the act was all that was

required to show the commission of the act. This is not the case today. The wrongful act does not make the act criminal until the actor is convicted, due to the defenses which may bar his conviction.

The law is based on the assumption that man acts of his own free will. His fate is not predetermined or predestined. Thus, the law may hold a man accountable for his actions.

BEGINNING OF THE COMMON LAW

Two major legal systems prevail throughout the civilized world. The civil law system which dates back to the Roman Empire where laws were written by the ruler and imposed on the people. The common law began as a result of the habits of individuals and the customs of groups. These habits and customs were so entrenched in society that they became the acceptable norms of behavior. Violations of these norms became the cases the new courts heard. These decisions were recorded and judges, looking for assistance, followed previous court decisions. This proceedure became known as "stare decisis" -- the following of precedents. Thus, the customs of the common people became the source of the common law -- the law of the common people.

COMMON LAW IN THE UNITED STATES

The settlers from England to the American Colonies brought a large part of the English Common Law with them. This system, with modifications, predominated colonial law. Under our form of government, a federal-state relationship allows each of the sovereign states to decide whether it will select the common law system or the civil law system, as its basis for its criminal law. The basic difference between the two systems is that one operates under common law; any act that was criminal under the common law remains criminal today, even though it is not found in statutory form. Under civil law, all crimes are statutory. In the absence of a statute, there can be no crime.

The Public Act which enacted the Penal Code in Connecticut repealed General Statute 54-117, which allowed for common law offenses. Thus, Connecticut went from common law to civil law. Even with this change, it is necessary to look to the common law for definition of terms.

The inventive genius of the criminal mind created new antisocial behavior against which society needs protection. The legislature, in response to these new pressures, enacts new laws establishing these crimes. An example of this type of action is the crime of embezzlement which was not a crime under common law, but created by statute.

MORALITY OF THE LAW

The approach to criminal law must be made with an open mind and as objectively as possible. The difference between acts is that some actions are morally wrong, and some are legally prohibited. An act may be committed that is obviously morally wrong in the eyes of most people, but has no legal penalty. In this type of case it would be unlawful for the police officer to make an arrest. He could be subject to civil liability to say nothing of embarrassment. If this happened, it would be because he acted emotionally instead of reacting with an

analytical mind required of any good officer.

A girl swims too far out from shore and struggles to keep from drowning. A man on shore sees this activity, but takes no action toward rescue, even though it would be no danger to himself. Instead he takes photographs of the struggle with the thought of selling them to a magazine. This man's conduct, most people would say, was morally wrong, and there is probably a crime here that should be charged. This type of conduct is morally intolerable, but no legally chargeable offense has occurred.

CLASSIFICATION OF CRIMES

Crimes are classified in many ways. Among them is the distinction made between offenses "mala in se" and "mala prohibita". Mala in se crimes are those bad in themselves; those morally as well as legally wrong. Murder, rape and the like would be classified this way. All common law crimes were mala in se. Mala prohibita crimes are those which are wrong because they are prohibited, and they involve no moral turpitude.

Moral turpitude, basically, is depravity or baseness of conduct. Whether a particular offense constitutes depravity or baseness depends on the attitude of the people. This can be seen today in the controversy surrounding obscenity.

At common law, crimes were classified in three categories -- treason, felonies and misdemeanors. This basic distinction remains today. Treason is identified as a criminal offense against the government -- state or federal -- unlikely to be confronted by a police officer. A felony was described as any crime for which the offender would forfeit both his real and personal property and in addition suffer imprisonment, fine or even death. The common law felonies were: murder, manslaughter, rape, sodomy, larceny, arson, and burglary. Misdemeanors, in English law, were used in contradistinction to felonies and generally those punished by fine or imprisonment otherwise than in a penitentiary.

Statutes today make other crimes felonies that were not felonies at Common Law. The word "felony", like "misdemeanor", is just a label used to define a class of offense, but these labels do not apply uniformly throughout the states. Each jurisdiction is free to label criminal action any name they wish so long as it does not violate the Eighth Amendment of the United States Constitution, which protects against cruel and unusual punishment. In this jurisdiction, the State of Connecticut, the distinction between felony and misdemeanor is the length of imprisonment. A felony is a crime to which an imprisonment for a term exceeding one year is attached. A misdemeanor, likewise, is a crime having a term of imprisonment up to one year.

Why is it important to distinguish between felony and misdemeanor? Much of the police action taken against an accused hinges upon this distinction. The type or amount of force used to apprehend an offender is based on the type of crime committed.

STATUS OF MUNICIPAL ORDINANCES

Firstly, a municipality here means any political subdivision of the state. A municipality is a corporation like any other corporation

except that it is public in nature. They are all created by the state legislature and exist at the whim of that body unless they have been established under home rule. Like private corporations whose internal operations are controlled through rules called by-laws, the municipal corporation has by-laws called ordinances. Some of these ordinances have no penalty attached for violation, thus no concern to the officer. Those which do carry penalties and subject the violator to arrest and trial are often called quasi-crimes. They lie somewhere between criminal wrongs and civil wrong. Since the state enacts crimes and because such offenses must apply throughout the state on a uniform basis, the state cannot delegate this power.

CORPUS DELICTI

The ability to prove a case in court depends on the officer's awareness of the elements that constitute the crime charged. He must fully understand what is necessary -- the concept of corpus delicti. The establishment of corpus delicti is done by providing answers for the two basic questions. First: What happened? This answer will supply information showing a loss or injury was suffered by a person. Secondly: Who did it? This determination establishes the criminal agent, the human element as opposed to an element of nature. Thus, in establishing the corpus delicti, the answer to the first question "What happened?", would provide the elements that would constitute a particular crime. The answer to the second question, "Who did it?", is closely aligned with the first.

For example, at 10:00 p.m. you are dispatched to a house in a sparsely populated neighborhood. When you arrive, the occupant directs you to a room wherein a metal cabinet within a wooden cabinet has been forced open. One hundred dollars is missing. Next you find that a rear door has been forced open. Your investigation brings to light that the occupant left the house at 7:00 p.m. and returned at 9:45 p.m. Your investigation has established the corpus delicti of burglary (second degree). This particular crime consists of the following elements: unlawful entering or remaining in the dwelling house of another, in the night season, for the purpose of committing a crime therein.

All these elements had to exist before the crime of burglary second could properly be charged. If, instead of a dwelling house, a shed was broken into for the purpose of seeking shelter from the storm, then burglary had not been committed because one element was not present. Instead, another crime had been committed. A charge of burglary could not be proven by the state, and the case would have been thrown out of court.

Now that you have established the corpus delicti -- the body of the crime -- you move into the next phase of identifying the "who". This identification must be made for a successful prosecution. When you have determined that a crime has, in fact, been committed and the proper charge has been determined, the accused can be charged. Your case will be provable in court.

THE CRIMINAL ACT

An outward manifestation by some wrongful external act is indispensible for establishing criminal liability. It is from the

voluntary acts of an accused person coupled with the surrounding circumstances that inference may be drawn of the defendant's state of mind. Therefore, a criminal intent without an accompanying criminal act is not punishable. The elements of prohibited and punishable conduct described in the statutes, while varying from offense to offense, are always directed toward an outward manifestation -- the action or inaction to be prevented. The thoughts and obscure intentions of a person are not punishable. Speaking, of course, is an act within criminal law concept of liability.

Since an act is essential to the commission of a crime, it is important to determine what constitutes an act. The criminal act may take a variety of forms and consequently may lead to a variety of complex legal problems. The law will not allow a man to be formally punished by society merely for what he thinks. Nor does the law generally punish one who commits an act without some form of evil state of mind.

Possession of an article was usually not chargable as a crime. To be a crime the possession must be coupled with an evil state of mind as required by the legislature. Possession of contraband is an exception to this rule. "Contraband" is defined in criminal law as the possession of articles so detrimental to society that regardless of the reason, possession of such articles is unlawful. Since no legal justification for possession exists, the mere possession of untaxed whiskey (moonshine), number slips, unprescribed narcotics, or certain types or styles of guns is illegal regardless of intent or reason. Thus, with the exception of contraband articles, possession can be innocent. Therefore, a person who is unaware that he possesses something which is or could be used for criminal purposes is not criminally liable. Generally, possession must be conscious and knowing before it can be punishable.

In the field of ethics, as in the teachings of the church, guilt depends upon the state of mind alone. But there is no criminal guilt without some socially harmful result of the guilty act and intent. When both are required, the act and intent must be simultaneous. The mental element of crime is sometimes considered as though there is one state of mind common to crime in general and sufficient for most offenses although some additional mental element is needed for certain crimes.

The external act and the state of mind, while not indicating the crime, establish the two ingredients or components is objective, the other is subjective; one physical "actus reus", the other is mental "mens rea". The "actus reus" is essential to crime but is not sufficient for this purpose without the necessary "mens rea", just as "mens rea" is essential to crime but is insufficient without the necessary "actus reus". Although two or more offenses may have the same objective component, as in the case of murder and manslaughter, the "actus reus" generally differs from crime to crime. In murder it is homicide; in burglary it is the breaking into a building; in uttering a forged instrument it is the offer as good that which is actually false. In like manner the "mens rea" differs from crime to crime. In murder, it is intent to cause death; in burglary, it is the intent to commit a crime; in uttering a forged instrument, it is "knowledge" that the instrument is false plus an intent to defraud. The "mens rea" and the "actus reus" must concur to constitute a true crime. "Actus non facit reum nise mens sit rea." An act does not make

guilty, unless the mind be guilty.

"-- the existence of a 'mens rea' is the rule of, rather than exception to, the principles of Anglo-American jurisprudence." So stated Chief Justice Vinson in 1951. Despite this reliable statement, definitions of "mens rea" are rare. An explanation by Judge Learned Hand adequately fills the gap: "Ordinarily one is not juilty of a crime unless he is aware of the existence of all those facts which make his conduct criminal. That awareness is all that is meant by the 'mens rea', the criminal intent, necessary to guilt, as distinct from the additional specific intent required in certain instances -- and even this general intent is not always necessary."

Intent is the primary form of the mental element the prosecution seeks to prove through evidence found by the investigator. Two points of confusion often arise in the mind of the police officer. Too often he does not realize that there is a distinction between the word "intent" in its legal sense and "intention." When we speak of doing something intentionally, we refer to voluntary conduct with a specific objective in mind. Although in a number of instances criminal intent can be proven by showing such voluntary conduct with a specific objective, criminality may also be proved by showing either voluntary or involuntary harm resulting merely from a determination to act in a certain way. For example, if John shoots at Fred voluntary, John is said to have acted intentionally. If John commits this act in order to injure Fred, he is said to have the requisite criminal intent. If John intentionally shoots at Sam but the bullet strikes Fred, a person John had no intention of hitting, John will nonetheless be liable for his act because of his intent to do harm, (Doctrine of transferred intent).

The second point of confusion arises over the meaning of "motive" and the part it plays in criminal law. Motive is often thought to be the same as intent. It is not. It is important for the investigator to realize that there is a vast difference between the two concepts.

Motive, good or bad, is never an essential element of a crime. Neither the presence nor the absence of a motive ever has to be proved at trial. It is not a part of the "corpus delicti." It can be defined as those desires which compel a person to intend to do something. Motive involves judgement, but it is not the basis for the judgement. Having the best of motive, a person who kills a known assassin is nonetheless guilty of a crime. Motive, however, is only one factor that can be utilized in finding intent, but is never sufficient to prove intent.

A mercy killing is an example of the difference. A terminally sick person is being kept alive by the doctors; yet he begs his son to put him out of his misery. The son procures sleeping pills and gives them to his father. The father takes the entire bottle and dies. The son had good motive. Still, his intent was to kill, and he is criminally liable despite his good motive.

The unintended consequences of a conduct are still the responsibility of the actor. As long as the accused commits an unlawful act accompanied by a wrongful state of mind, he is said to intent the results of his conduct -- even when the specific result achieved is not the specific result intended as long as the actual harm done would normally follow such action. The basic reasoning here is that a man is responsible for the natural and probable consequences of his act.

MENS REA

Intent or "mens rea" is divided into two categories known as general intent and specific intent. Some crimes require proof of general intent or general evil state of mind. Other crimes require proof of a specific state of mind or intent to do a specific thing.

General intent is all that is required in most crimes. All that has to be shown is that he knew what he was doing was wrong. The guilty intent is not necessarily that of intending the very act or thing done and prohibited by common law or statute law, but it must be the intention to do something wrong. Evidence which will convince a jury that the defendant had this evil state of mind when he committed the act will be enough to raise the presumption which must be overcome by the defense. A specific intent, when required, must be proved and cannot be presumed.

Specific intent must be proved in some crimes. It must be shown that the actor desired the forbidden result. It must be proved like any other element of the crime; i.e., John opens the door to someone's house and enters to escape the rain. Has he unlawfully entered the dwelling of another with the intent to commit a crime? No. The prosecution would be unable to prove the specific state of mind required by presumption. The jury would not be permitted to presume that merely because John was in another's house that he was there to commit a crime. However, they could presume from the evidence of his being in the house that he trespassed, since criminal trespass requires only the showing of general intent. It would then be up to John to prove a proper defense to his action, if he had any, to escape liability for his act.

RECKLESSNESS

A less wrongful state of mind than intent is called recklessness. Committing a prohibited act with a reckless state of mind is nonetheless criminal and will often justify holding an individual criminally liable even though intent cannot be proved. A reckless state of mind means that someone acts, not intending harm, but with complete disregard for the rights and safety of others, causing harm to result. To put the rule another way, if John voluntarily commits an act without intending to hurt anyone but his conduct is so dangerously done that he is not concerned with the consequences, he is acting with a reckless state of mind. The accused must foresee that his voluntary act would possibly or probably cause the result, and that he acted unreasonably under circumstances he knew about. The defendant's actual state of mind must be shown -- Suppose John decided to do target practice with his .22 caliber pistol in front of his house in a busy residential neighborhood. There are children playing in the street, but John is determined to practice. He fires at the tires of a passing car, just like on T.V. The bullet misses but strikes and kills a child playing across the street. John intended to hurt no one. His reckless state of mind would nevertheless make him criminally responsible, but probably for a lesser degree of homicide than if he had acted with the intent to kill.

NEGLIGENCE

The lowest state of mind is negligence. Some types of negligence will render one criminally responsible while other types will not. There are four elements of negligence: (1) a standard of care; (2) breach of that standard; (3) proximate cause; and (4) harm of injury produced. It is difficult to separate the state of mind and the conduct involved. But suffice it to say that negligence, which involves acts of ommission as well as acts of commission, will in any number of instances, make one guilty of a crime. Negligent acts are usually voluntary but do not rise to the level of intended conduct.

The standard of care, first element, concerns everyone's legal responsibility to act or refrain from acting in ways detrimental to others. Everyone owes some duty to others not to infringe upon their safety or welfare. If one person harms another, it must be first determined whether a duty was owed. If it was, this element is satisfied. The duty may be fixed either by statutory or common law; i.e., the duty owed to a child by a parent. Duty may arise when someone who owes no duty to another, performs an act directed to that other person; i.e., a passerby has no duty to save a stranger in distress. Once the passerby begins to save the stranger, he has a duty to act with reasonable care.

The second element, a breach of that standard, must be determined. Did the person owing the duty meet the standard of care? This involves the "reasonable man" test which is applied by asking whether the accused exercised the same amount of care that a reasonable, prudent person would exercise under similar circumstances? If the accused did not act in this way, the duty was not fulfilled. There is no model man to be used for this standard which varies from case to case depending on the circumstances; i.e., a case involving medical care requires a doctor to exercise more care than an ordinary passerby.

Proximate cause, the third element, exists when a particular act or ommission is the direct cause of the harm. There are three methods to determine the existence of proximate cause. First, proximate cause is established by showing a direct cause and effect relationship; i.e., John shoots at Jim, the bullet strikes Jim and Jim is injured. No other act interfered to produce this result. The second method may show that the act of the accused set a chain of events into motion which indirectly caused the harm; i.e., Bill threatened to shoot Fred and Fred dies of a heart attack from fear of Bill's threat. The heart attack would not have occurred without Bill's threat. Thus, the accused is criminally responsible for the harm. Finally, proximate cause can be established by the act of the accused placing the victim in a position that substantially increased the risk of harm by some other cause. Charlie hits Ben with a bat knocking Ben into the roadway where he is run over by an automobile. Charlie's action is the proximate cause of death, and he is criminally responsible.

Negligence differs from recklessness in one important aspect. Recklessness is conduct governed by the actual state of mind, while in negligence the accused is not aware of the consequences of his conduct even though a reasonable man would be.

By way of example we will consolidate the principles of negligence. Mr. J. is driving down a street and is obeying all traffic laws. He takes his eyes off the road for a second to light a cigarette and unintentionally runs through a stop sign striking another automobile crossing the intersection, killing the driver of the car. Mr. J.,

because he is driving an automobile, owes a duty to the other people on the road to be constantly aware of traffic conditions, the standard of care. He breached that standard by taking his eyes off the road which proximately resulted in harm. There is no doubt that Mr. J. was negligent, but to what degree? There is no doubt that Mr. J. would be civilly liable because the breach of the standard of care was not so severe as to constitute blameworthy negligence, disregarding the injury.

Let us alter the circumstances by having Mr. J. driving while intoxicated instead of just lighting a cigarette, when he ran through the stop sign. Now, Mr. J.'s breach of reasonable conduct was so severe that criminal negligence is established and Mr. J. is criminally responsible.

CRIMINAL LIABILITY

A police officer often becomes frustrated when an accused walks out of court a free man if it appears to the officer that the defendant did, in fact, commit the crime. Acquittals, as well as other non-convictions, occur because of some improper procedure followed by the officer; or, because of some modern constitutional interpretation, the court rules a former procedure no longer proper or because some substantive rule of criminal law constituting a defense operates for the benefit of the accused. Early criminal law did not take into account a man's responsibility for his actions. All that was necessary to convict was to show the accused committed the forbidden act. The law changed so that now there is concern for reasons or justification for committing the act.

CULPABILITY

Blamable; censurable; involving the breach of a legal duty or the commission of a fault. The term is not necessarily equivalent to "criminal," for in present use, and not withstanding its derivation, it implies that the act or conduct spoken of is reprehensible or wrong but not that it involves malice or a guilty purpose. "Culpable" in fact connotes fault rather than guilt. Culpability or criminal liability as referred to in Connecticut's Penal Code is that mental state required as an element of the offense. Such mental state is ordinarily designated in the statute defining the prohibited conduct by the use of the terms "intentionally," "knowingly," "recklessly," or "criminal negligence," or by such terms as "with intent to defraud," "knowing it to be false," or "with the intent to cause the death of another person," describing a specific kind of intent or knowledge. When one and only one of such terms appears in the statute defining the offense, it is presumed to apply to every element of the offense unless an intent to limit its application clearly appears; i.e., "intentionally starts a fire -- and thereby recklessly places a building in danger of destruction or damage."

Even if no particular mental state appears in the statute defining the offense, it may nonetheless be required for the commission of the offense if the conduct involves a culpable mental state. For example, it is Rape Second Degree for a male eighteen years old or more to engage in sexual intercourse with a female less than sixteen. Although the statute does not specify a mental state, it is implied, since the

forbidden act must necessarily be done intentionally and knowingly.

Criminal liability, the minimum requirement on the part of anyone, is the performance of conduct which includes a voluntary act or omission to act when the person is physically capable of performing. Criminal liability may be either a strict liability or may require mental culpability.

If the performance involves either a voluntary act or the omission of an act is all that is required for commission of a particular offense, the offense is one of strict liability. In other words, it is an offense which can be committed without recklessness or negligence, and without intent or knowledge.

If a particular mental state is required with respect to every material element of an offense, the offense is one of mental culpability. Most offenses are offenses of mental culpability involving either intent or acting knowingly, recklessly, or negligently. Burglary, for example, is a crime of mental culpability because to commit burglary it is necessary that a person enter or remain unlawfully in a building "with intent to commit a crime therein."

CONDUCT OF ANOTHER

Criminal liability for the conduct of another which constitutes an offense falls on anyone who intentionally aids such a person. Intentionally aiding such a person includes: soliciting, requesting, commanding, or improtuning (persistently or repeatedly urges).

In any prosecution where the defendant's criminal liability is based upon another's conduct, it is no defense that the other person is not guilty because of irresponsibility or other legal incapacity or exemption as insanity, under age of criminal responsibility, unawareness of criminal nature of act, unawareness of defendant's criminal purpose, or any other factor precluding the mental state necessary for the crime. It is no defense that the person has not been prosecuted for or convicted of an offense based on the questioned conduct or that the person has previously been acquitted or that he has legal immunity from prosecution.

IMMUNITY

The practice of granting immunity has become common place in criminal trials today. This is not new. Actually, immunity was a recognized doctrine of the common law. Basically there are two kinds of immunity -- common law immunity and statutory immunity. Sometimes it is necessary, in order to convict persons accused of committing crimes, that immunity be given to one or more of the participants. Of course this would not be done if sufficient evidence existed to bring a conviction. We must be aware, as police officers, that the prosecutor and not the police is the only authorized grantor of immunity. Some jurisdictions require the court to consent to an agreement of immunity.

DEFENSES

The theory that a man acts of his own free will is the basis for our system of justice. To maintain this system, the law must allow some tolerance to those accused of crime when they act against their

own free will, either because they were insane or because their free will was exercised in such a way that they were compelled to do something to avoid serious consequences, or because of a legal duty. These circumstances form limitations on the culpability or blame of the accused by presenting defenses to him. We will examine a number of these defenses and their effect on the "mens rea" or the "actus reus."

INSANITY

Insanity is a legal defense in criminal cases. Here we emphasize insanity as a legal not a medical concept, since it is a fundamental principle of law that a person cannot be convicted of a crime if, at its commission, he was not responsible for his actions. Thus a dividing line must be drawn to separate those who are responsible and those who are not. This line is the difference between sanity and insanity. Everyone is presumed to be sane at the time that he commits the offense. This eliminates the necessity of proving every defendant sane before the trial begins. But, if the defense does present a question about his sanity, the state must take the time to prove the defendant's sanity. The substantial criminal law is concerned with the sanity at the time the act is committed, since this determines liability or responsibility for the criminal act.

Let us here briefly discuss the evolution of insanity as a defense. The insanity defense developed through the case law process. The legal system, in the beginning, did not acquit a madman of criminal charges. A special verdict of "madness" was rendered and the king granted pardons. This developed into a "wild beast test" wherein the accused was excused from liability if he were totally without reason, understanding, and memory. Later this test developed into the "right-wrong test." This test would enable the defendant to be declared insane if he was unable to distinguish between what was morally right and morally wrong or between good and evil.

The killing of Sir Robert Peel's secretary by Daniel M'Naghten in 1843 became the cornerstone of a modern test for insanity. This decision established the rule that, if at the time of the act, the defendant, laboring under a defect of reason from a diseased mind not knowing the nature or quality of his act or knowing the nature of his act, did not know it was wrong, he was legally insane. The M'Naghten case or the "right-wrong" test deals with the ability of the defendant to act in a rational manner and his ability to evaluate the circumstances at the time of his act.

The M'Naghten test was criticized on the grounds it was arbitrary, applying to a small percentage of the people who were mentally ill, thus taking into account only one aspect instead of the whole personality of an individual. The United States Court of Appeal for the District of Columbia, in 1954, broadened The M'Naghten test by deciding the Durham case. This case held that the defendant is not criminally responsible if his unlawful act was the product of mental disease or mental defect. The Durham Rule was criticized on opposite grounds as too broad because it placed too much power in the hands of psychiatry in determining the legal issue in insanity.

These tests rest on the premise that the accused is "noncompos

mentis," the accused is unable because of his mental illness to form the intent necessary to commit the crime. The law does not recognize any degree of insanity. There are no gray areas -- one is sane or insane. Likewise the law is not concerned with causes of insanity. Even delirium tremers, resulting from excessive consumption is treated as a type of insanity.

A person may be an idiot, a moron, or an imbecile; but, if he possesses capacity to know the right from wrong of his act, he is legally sane. The legality of insanity as a defense is established in the Connecticut Penal Code under statute 53a-13.

INFANCY

In criminal law, it is necessary to establish criminal intent of the child. A child is not criminally responsible unless he is old enough and intelligent enough to entertain a criminal intent. To be capable of entertaining a criminal intent, he must be capable of distinguishing between right and wrong of a particular act.

Children under seven years are, by an arbitrary rule of the common law, conclusively presumed to be "Doli Incapax," incapable of criminal intent, and no evidence can be received to show capacity in fact. This rule applies to both common law and statutary law.

The child between seven and fourteen years was presumed incapable of criminal intent, and no evidence can be received to show capacity in fact. This rule applies to both common law and statutary law.

The child between seven and fourteen years was presumed incapable of criminal intent, but this could be argued by evidence that could contradict. Thus, the state could present evidence to show that this child had sufficient intelligence to distinguish between right and wrong and did have capacity to act with the requisite evil state of mind.

Under Connecticut Juvenile Court rules: A child means any person under sixteen years of age at the time of the filing of a petition of neglect or dependency, or any person whose delinquent act occurred prior to his sixteenth birthday, or any person under the age of eighteen who is the subject of a petition of alleged child abuse as defined in General Statute Section 17-3a. The age bracket by virtue of these rules extend the area of "Doli Incapax" to embrace age fifteen. Except in a homicide, the child fifteen years may be presumed capable of forming a criminal intent. But children between seven and fifteen, regardless of the crime, are presumed to be incapable of forming criminal intent. Both presumptions are still susceptible to the determination of a competent court of jurisdiction.

INTOXICATION

Intoxication is not a defense to a criminal charge. However, the defendant is permitted, in any prosecution for an offense, to offer evidence of his intoxication whenever it is relevant to negate an element of the offense charged.

Intoxication in contemporary society includes more than alcoholic beverages. Use of narcotics or dangerous drugs may result in intoxication. Intoxication, as a defense, falls within two categories.

Voluntary intoxication is not a defense ordinarily. A voluntarily intoxicated person is held responsible for the results of his action

committed while in this condition. If the crime committed requires proof of a specific intent, the state of voluntary intoxication of the accused may affect his ability of forming this specific intent -- thus no possible connection. If the crime requires knowledge of certain facts, extreme voluntary intoxication may render the accused incapable of having this knowledge. Without proof of this essential element there could be no conviction. This would apply to cases such as "knowingly, without license or privilege to do so, enters or remains."

When the accused becomes intoxicated to fortify himself to commit the act intended before becoming intoxicated, the intent remains; and intoxication, thus used, would not be a defense.

Involuntary intoxication, forcibly pouring alcohol into someone who then commits a crime, is ordinarily a defense. But there is a question of whether the degree of involuntary intoxication is important. If this was an absolute defense, then one small drink forced would be sufficient to excuse his crime.

SPECIFIC DEFENSES - EFFECT ON ACTUS REUS

Ignorance or mistake, duress, entrapment, and justification are defenses and principles that have been articulated in statutory form in the Penal Code. This statement of criminal liability principles and defenses does not preclude a court from recognizing other principles or defenses not inconsistent with those stated.

Self-defense, a modifying circumstance at common law, is restated in the Penal Code under provisions dealing with the use of physical force.

Justifiable self-defense occurs when a person is assaulted, being free of fault himself, kills his assailant to save himself or another from death or serious physical injury.

The conditions under which a homicide is justifiable on the grounds of self-defense are:

1) Reasonably apparent imminent danger of death to himself or another or of some other felony (arson, burglary, rape, murder, etc.) or serious physical injury;
2) Danger need not necessarily be real, but it must be believed on reasonable grounds to be real;
3) The threatened person must retreat as far as he can with safety to avoid the necessity of using deadly force except he shall not retreat if he is in his dwelling or place of work;
4) He is not the initial aggressor; or did not provoke the difficulty.

In summary, a homicide is justifiable if necessarily committed by a person, who is without fault himself, in order to save his own life or to prevent great bodily harm, or to prevent the commission of a known felony by violence or surprise upon his person, his habitation, or his property.

The statutory form of justification is presented in the use of physical force or deadly force. This section proposes various situations in which persons are authorized to use varying degrees of physical force or deadly force.

Conduct which would otherwise constitute an offense is justifiable and not criminal when required or authorized by law or a judicial decree or performed by a public servant in the reasonable exercise of his official powers, duties or functions. Conduct necessary as an

emergency measure to avoid an imminent public or private injury which is about to occur through no fault of the actor. This injury is so grave that, according to ordinary intelligence and morality, the desirability and urgency to avoid such injury outweighs the avoidance of another lesser injury; i.e., the breaking into a home to use the phone to summon aid to prevent a death or to warn of a catastrophe -- justification would prevent prosecution for breaking into a house (a criminal trespass).

Parents, guardians or other persons entrusted with the care and supervision of a minor or an incompetent person, and a teacher or other person entrusted with the care and supervision of a minor for a special purpose, may use physical force upon that person to the extent that he believes it necessary to maintain discipline or to help the welfare or such persons. Those responsible for order in a common carrier, bus, train, aircraft, etc., may use that physical force he reasonably believes necessary to maintain order. He may use deadly force only when he reasonably believes it is necessary to prevent death or serious physical injury. In the presence of an impending suicide, a person may use physical force upon this person as he reasonably believes is necessary to prevent such results. A doctor or someone acting under his direction, may use physical force for the purpose of administering a form of treatment for the good of the patient. In this case, consent is required; but, in the case of an emergency, the physician may act without consent if he reasonably believes no person competent to consent is available.

Physical force may be justifiably used upon another person in self-defense, or to protect a third person. It may also be used to prevent larceny of, or criminal mischief to property as well as in the defense against a criminal trespass, arson, or any crime of violence. Deadly physical force may be used under such circumstances as stated in the statutes.

The use of physical force in effecting an arrest or preventing an escape will be discussed under the Laws or Arrest.

A forbidden act committed in good faith and with a reasonable belief that certain facts exist which, if they actually did exist would make the act innocent, is a good defense. It is larceny to steal property. A person taking someone else's hat from a rack believing it to be his own does not steal the hat or commit larceny. There would be no criminal liability where the statute expressly provides that the factual mistake constitutes a defense or exemption; and also, if the factual mistake is the kind that supports a defense of justification.

A bona fide and reasonable mistake of fact stands on the same footing as infancy, the absence of the reasoning faculty; and insanity, the pervision of that faculty. Whether the mistaken belief is honest or feigned the jury must determine in view of all the evidence. The Connecticut Penal Code established as statutory law the common law defenses of ignorance or mistake. The structure of this statute incorporates the common law aspects with contemporary case law.

Section 53a-6 Effect of Ignorance or Mistake (on criminal liability).

a) A person shall not be relieved of criminal liability for conduct because he engaged in such conduct under a mistaken belief of fact, unless:

1) Such factual mistake negates the mental state required for the commission of an offense; OR

2) The statute defining the offense or a statute related thereto expressly provides that such factual mistake constitutes a defense or exemption; OR

3) Such factual mistake is of a kind that supports a defense of justification.

b) A person shall not be relieved of criminal liability for conduct because he engages in such conduct under a mistaken belief that it does not, as a matter of law, constitute an offense, unless:

1) The law provides that the state of mind established by such mistaken belief constitutes a defense, OR

2) Such mistaken belief is founded upon an official statement of law contained in a statute or other enactment, an administrative order or grant of permission, a judicial decision of a state or federal court, or an interpretation of the statute or law relating to the offense, officially made or issued by a public servant, agency, or body legally charged or empowered with the responsibility or privilege of administering, enforcing or interpretating such statute or law. (1969 P.A. 828, S.6).

Subsection (a) of the above statute, a mistaken belief of fact precludes criminal liability, may be illustrated as follows:

1. A police officer having a warrant for the arrest of Mr. A mistakenly arrests Mr. B, who resembles Mr. A, and holds him in a police station for an hour before ascertaining his mistake and releasing him. The officer is not guilty of "unlawful restraint" because his mistake of fact nullifies the necessary mental state for the commission of the crime -- knowledge that the restraint is unlawful.

2. M. has sexual intercourse with F., a mentally ill woman whose condition is not always apparent and is not known to or realized by M. Although M. would be guilty of second degree rape if he had realized the woman's condition, his unawareness of this fact is by statute, expressly made a defense to the charge.

3. During a heated argument between A. and B., B, a man with a reputation for violence and rumored to carry a pistol on occasion, suddenly places his hand in his bulging jacket, and A. strikes him in the face, breaking his nose. Although B. did not have a pistol and was merely reaching for a handkerchief, A. is not guilty of assault because his factual mistake was of kind that supports a defense of justification.

DURESS

A person who engages in a legally forbidden conduct because he was coerced to do so by the use or threatened use of imminent physical force, against his person, which a reasonable steadfast person is unable to resist -- a person not acting of his own free will. This is a defense against the charge.

This could not be a defense for a person who intentionally or recklessly places himself in a predicament wherein he would be subject to duress.

ENTRAPMENT

The key word in this area is "induct" -- when a public servant, a police officer, induces an otherwise innocent person, to commit a crime for which he will be punished. There are two key elements, 1) inducement of a person, 2) by a police officer.

Inducement means that the person did not intend to commit the crime before he was induced. The officer placed the idea or committing the crime in the mind of the accused.

WITHDRAWAL - RENUNCIATION

It is an affirmative defense that the defendant completely and voluntarily terminates his complicity prior to the commission of the offense. He must make a substantial effort to prevent the commission of the offense.

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INFORMATION REGARDING LAW

I. Classification of Offenses*

*It is important to note that the definition of Offense does not include motor vehicle violations.

A. "Offense" is a general term that means:

1. Any crime
or - which constitutes a breach of Connecticut
2. Any violation State or Local Law

B. "Crime" means either a felony or a misdemeanor. Any offense which is not a crime is a "violation".

Example:

Classes A, B, C, D, unclass A, B, C, unclass

C. A violation is any offense for which the only sentence is a fine. A violation is a non-criminal offense. Thus, a person convicted of a violation should not be branded a criminal.

Example: Conviction of a Building Code Standard

D. A felony is any offense for which a person may be sentenced to a term of imprisonment in excess of one year. The sentence may also include a fine.

E. A misdemeanor is any offense for which a person may be sentenced to a term of imprisonment of not more than one year. The sentence may also include a fine.

II. Personal Penalty Suffered For the Conviction of a Felony (Crime)

A. The conviction of a Felony gives you a criminal record with Local, State and Federal Law Enforcement Departments. The record will include Police photographs and fingerprints. This record will also be permanent.

B. The conviction of a Felony may cost you certain Constitutional Rights.

1. You may lose you Right to Vote.
2. You will probably never be issued a gun permit.
3. You may never be admitted to practice a Licensed Profession, i.e., Law, Medicine, Dentistry, Law Enforcement, or Teaching.
4. You will never pass a Government security check.
5. You will have difficulty in obtaining bonds for securing a position.
6. Every time you apply for a job, there will be a blank: "Have you ever been arrested and convicted of a crime? If so, give the particulars."

GLOSSARY

A.

ACTION. A proceeding in court to enforce or protect a right, to prevent a wrong, or to punish a public offense. It is also called a suit, case, lawsuit or criminal prosecution.

ACTION IN REM. An action for a thing; an action for the recovery of a thing possessed by another.

APPELLATE COURT. A court having jurisdiction of appeal and review; not a trial court.

APPELLANT. The party appealing a decision or judgment to a higher court.

APPELLE. The party against whom an appeal is taken.

ARRAIGNMENT. In criminal practice, to bring a prisoner to the bar of the court to answer to a criminal charge.

ADVERSE WITNESS. A witness whose mind discloses a bias hostile to the party examining him.

B.

BAIL. To set at liberty a person arrested or imprisoned, on security being taken, for his appearance on a specified day and place.

BAIL BOND. An obligation signed by the accused, with sureties, to secure his presence in court.

BANC: Bench. The place where a court permanently or regularly sits. A "sitting in banc" is a meeting of all the judges of a court, as distinguished from the sitting of a single judge.

BENCH WARRANT. Process issued by the court itself, or "from the bench" for the attachment or arrest of a person.

BOND OVER. "Binding Over," The Judge of the Court of Common Pleas may, if he believes there is probable cause or a reasonable basis for believing that the accused has committed a crime that is not within the jurisdiction of the Court of Common Pleas, "bind the case over" to the Superior Court for trial.

BRIEF. A written or printed document prepared by counsel to file in court, usually setting forth both facts and law in support of his case.

C.

CAPIAS. From the Latin, "That you take." The general name for several species of writs, the characteristics of which is that they require the officer to take the body of the defendant into custody; they are writs of attachment or arrest.

CHARGE. The final statement about the law and instructions issued by the judge to the jury in the case. It will tell the jurors what issues they are to decide.

C. Contd.

CERTIORARI. An original writ commanding judges or officers of inferior courts to certify or to return records of proceedings in a cause for judicial review.

CROSS EXAMINATION. The examination of a witness upon a trial or hearing by the party opposed to the one who produced him upon his evidence, to test the truth, to further develop it, or for other purposes.

CONTEMPT OF COURT. Any act calculated to embarras, hinder, or obstruct a court in the administration of justice, or calculated to lessen its authority or dignity. Contempts are of two kinds: Direct and Indirect. Direct contempts are those committed in the immediate presence of the court; Indirect is the term chiefly used with reference to the failure or refusal to obey a lawful order.

COURT REPORTER. A person who transcribes by shorthand or stenographically takes down testimony during court proceedings.

COURTS OF RECORD. Those whose proceedings are permanently recorded, and which have the power to fine or imprison for contempt. Courts not of record are those of lesser authority whose proceedings are not permanently recorded.

D.

DE NOVO. Anew, afresh, A "trial de novo" is the retrial of a case.

DECREE. A decision or order of the court. A final decree is one which fully and finally disposes of the litigation; an interlocutory.

DEMUR. To file a pleading (called "a demurer") admitting the truth of the facts in the complaint, or answer, but contending they are legally insufficient.

DISPOSITION. The testimony of a witness not taken in open court, but in pursuance of authority given by statute or rule of court to take testimony elsewhere.

DIRECT EXAMINATION. The first interrogation of a witness by the party on whose behalf he is called.

DISSENT. A term commonly used to denote the disagreement of one or more judges of a court with the decision of the majority.

DOUBLE JEOPARDY. Common-law and constitutional prohibition against more than one prosecution for the same crime, transaction or omission.

DELIBERATE. To weigh, to ponder (weigh mentally), discuss, regard upon, consider. To examine, to consult, or order to form an opinion, to consider the reason for and against.

DUE PROCESS. Law in its regular course of administration through the courts of justice. The guarantee of due process requires that every man have the protection of a fair trial.

E.

ESTOPPEL. A person's own act, or acceptance of facts, which preclude his later making claims to the contrary.

EXCEPTION. A formal objection to an action of the court, during the trial of a case, in refusing a request or overruling an objection; implying that the party excepting does not acquiesce in the decision of the court, but will seek to procure its reversal.

E. Contd.

EVIDENTIARY. Having the quality of evidence; constituting evidence; evidencing.
EVIDENTIARY FACTS. Facts necessary to prove the essential or ultimate fact.
EXHIBIT. A paper, document or other article produced and exhibited to a court during a trial or hearing.
EXPERT EVIDENCE. Testimony given in relation to some scientific, technical, or professional.
EXTRADITION. The surrender by one state to another of an individual accused or convicted of an offense outside its own territory, and within the territorial jurisdiction of the other.

F.

FALSE ARREST. Any unlawful physical restraint of another's liberty, whether in prison or elsewhere.

G.

GUARDIAN AD LITEM. A person appointed by a court to look after the interests of an infant whose property is involved in litigation.
GUILT. In criminal law, that quality which imparts criminality to a motive or act, and renders the person amendable to punishment by the law. That disposition to violate the law which has manifested itself by some act already done. The opposite of innocence.
GUILTY. Having committed a crime or tort; the word used by a prisoner in pleading to an indictment when he confesses the crime of which he is charged, and by the jury in convicting.

H.

HARMLESS ERROR. In appellate practice, an error committed by a lower court during trial, not prejudicial to, the rights of the party and for which the court will not reverse the judgment.
HABEAS CORPUS. "You have the body." The name given to a variety of writs whose object is to bring a person before the court or judge. In most common usage it is directed to the official or person detaining another, commanding him to produce the body of the prisoner or person detained so the court may determine if such person has been denied his liberty without due process of law.
HARDSHIP. The severity with which a proposed construction of the law would bear upon a particular case, founding, sometimes, an argument against such construction, which is otherwise termed the "argument ab inconvenient."
HEARING. Proceeding of relative formality, generally public, with definite issues of facts or of law to be tried, in which parties proceeded against have right to be heard, and is much the same as a trial and may terminate in final order.
HEARING DE NOVO. Generally a new hearing or a hearing for the second time, contemplating an entire trial in same manner in which matter was originally heard and a review of previous hearing.

H. Contd.

HEARSAY. Evidence not proceeding from the personal knowledge of the witness, but from the mere repetition of what he has heard others say. That which does not derive its value solely from the credit of the witness, but rest mainly on the veracity and competency of other persons.

HOSTILE WITNESS. A witness who is subject to cross-examination by the party who called him to testify, because of his evident antagonism toward that party as exhibited in his direct examination.

HUE AND CRY. In Old English Law. A loud outcry with which felons (such as robbers, burglars, and murderers) were acciently pursued, and which all who heard it were bound to take up, and join in pursuit, until the malefactor was taken.

HUNG JURY. A jury so irreconcilably divided in opinion that they cannot agree upon any verdict.

I.

ILLEGAL. Not authorized by law; illicit; unlawful; contrary to law; frequently it imports a violation.

IMMATERIAL. Not material, essential, or necessary; not important or pertinent; not decisive; of no substantial consequence; without weight, of no significance.

IMPANEL. The act of the clerk of the court in making up a list of the jurors who have been selected for the trial of a particular cause. All the steps of ascertaining who shall be the proper jurors to sit in the trial of a particular case up to the final formation.

IMPEACHMENT OF WITNESS. An attack on the credibility of a witness by the testimony of other witnesses.

IMPLIED CONTRACT. A contract in which the promise made by the obligor is not expressed but inferred by his conduct or implied in law.

INADMISSIBLE. That which, under the established rules of evidence cannot be admitted or received.

IN BANC. On the bench; all the judges of the court sitting together to hear a cause.

IN CAMERA. In chambers; in private.

INCOMPETENT EVIDENCE. Evidence which is not admissible under the established rules of evidence.

INDETERMINATE SENTENCE. An indefinite sentence of "not less than" and "not more than" so many years, the exact term to be served being afterwards determined by parole authorities within the minimum and maximum limits set by the court or by statute.

INDICTMENT. An accusation in writing found and presented by a Grand Jury, charging that a person therein named has done some act, or been guilty of some omission which, by law, is a crime.

INFERIOR COURT. Any court subordinate to the chief appellate tribunal in a particular judicial system.

INFORMATION. An accusation for some criminal offense, in the nature of an indictment, but which is presented by a competent public officer instead of a Grand Jury.

INJUNCTION. A mandatory or prohibitive writ issued by a court.

I. Contd.

INSTRUCTION. A direction given by the judge to the jury concerning the law of the case.
IN EVIDENCE. Included in the evidence already adduced. The "facts in evidence" are such as have already been proved in the cause.
INTER ALIA. Among other things or matters.
INTER ALIOS. Among other persons; between others.
INTERLOCUTORY. Provisional; temporary; not final. Refers to orders and decrees of a court.
INTERROGATORIES. Written questions propounded by one party and served on an adversary, who must provide written answers thereto under oath.
INTERVENTION. A proceeding in a suit or action by which a third person is permitted by the court to make himself a party.
INTERSTATE. One who dies without leaving a will.
IRRELEVANT. Evidence not relating or applicable to the matter in issue; not supporting the issue.
ISSUABLE PLEA. A plea to the merits; a traversable plea. A plea such that the adverse party can join issue upon it and go to trial, It is true a plea in abatement is a plea, and, if it be properly pleaded, issues may be found on it.

J.

JUDGMENT. A sense of knowledge sufficient to comprehend nature of transaction. The information of an opinion or notion concerning some thing by exercising the mind upon it.
JURISPRUDENCE. The philosophy of law, or the science which treats of the principles of positive law and legal relations.
JURY. A certain number of persons, selected according to law, and sworn to inquire of certain matters of fact, and declare the truth upon evidence laid before them.
JURY ARRAY. A list of names of citizens summoned as jurors for the session of court. The actual persons who will sit as jurors in a particular case are chosen from the array and, when selected and sworn, constitute the jury panel.
JURY INSTRUCTION AND CHARGE. The charge or instruction of the court to the jury upon the case, as a whole, or upon its general features and characteristics.
JURY - GRAND. A jury of inquiry whose duty is to receive complaints and accusations in criminal cases, hear the evidence and find bills of indictment in cases where they are satisfied that there is probable cause that a crime was committed and that a trial ought to be held.
JURY - PETIT. The ordinary jury of twelve (or fewer) persons for the trial of a civil or criminal case. So called to distinguish it from the grand jury.
JURY COMMISSIONER. An officer charged with the duty of selecting the names to be put into a jury wheel, or selecting the panel of jurors for a particular term of court.

L.

LEADING QUESTION. One which instructs a witness how to answer or puts into his mouth words to be echoed back; one which suggests to the witness the answer desired. Prohibited on direct examination.

L. Contd.

LETTERS ROGATORY. A request by one court of another court in an independent jurisdiction that a witness be examined upon interrogatories sent with the request.
LIBEL. A method of defamation expressed by print, writing, pictures, or signs. In its most general sense, any publication that is injurious to the reputation of another.
LEVY. A seizure; the obtaining of money by legal process through seizure and sale of property; the raising of the money for which an execution has been issued.
LIMITATION. A certain time allowed by statute in which litigation must be brought.
LIS PENDENS. A pending suit.
LOCUS DELICTI. The place of the offense.

M.

MALFEASANCE. Evil doing; ill conduct; the commission of some act which positively is prohibited by law.
MALICIOUS PROSECUTION. An action instituted with intention of injuring defendant and without probable cause, and which terminates in favor of the person prosecuted.
MANDAMUS. The same of a writ which issues from the court of superior jurisdiction, directed to an inferior court, commanding the performance of a particular act.
MANDATE. A judicial command or precept proceeding from a court or judicial officer, directing the proper officer to enforce a judgment sentence, or decree.
MASTER IN CHANCERY. An officer of a court of chancery who acts as an assistant to the judge.
MATERIAL EVIDENCE. Such as is relevant and goes to the substantial issues in dispute.
MESNE. Intermediate; intervening.
MISTRIAL. An erroneous or invalid trial; a trial which cannot stand in law because of lack of jurisdiction, wrong drawing of jurors, or disregard of some other fundamental requisite.
MITIGATING CIRCUMSTANCE. One which does not constitute a justification or excuse for an offense, but which may be considered as reducing the degree of moral culpability.
MOOT. Unsettled; undecided. A moot point is one not settled by decisions.
MORAL TURPITUDE. Conduct contrary to honesty, modesty, or good morals.
MOTIONS. Primarily an application for a rule or order made "viva voce" (with the living voice; by word of mouth) to a court or judge, but the term is generally employed with reference to all such applications, whether written or oral.
MUNICIPAL COURTS. In the judicial organization of some states, courts whose territorial authority exists.

N.

NE EXEAT. A writ which forbids the person to whom it is addressed to leave the country, the state, or the jurisdiction of the court.
NEGLIGENCE. The failure to do something which a reasonable man, guided by ordinary considerations, would do; or the doing of something which a reasonable and prudent man would not do.
NEXT FRIEND. One acting for the benefit of an infant or other person without being regularly appointed as guardian.
NISI PRIUS. Courts for the initial trial of issues of fact, as distinguished from appellate courts.
NO BILL. This phrase, endorsed by a grand jury on the indictment, is equivalent to "not found" or "not a true bill." It means, in the opinion of the jury, evidence was insufficient to warrant the return of a formal charge.
NOLLE PROSEQUI. A formal entry upon the record by the plaintiff in a civil suit, or the prosecuting officer in a criminal case, by which he declares that he "will no further prosecute" the case.
NOLO CONTENDERE. A pleading usually used by defendants in criminal cases, which literally means "I will not contest it."
NOMINAL PARTY. One who is joined as a party or defendant merely because the technical rules of pleading require his presence in the record.
NON COMPOS MENTIS. Not sound of mind; insane.
NON OBSTANTE VEREDICTO. Not withstanding the verdict. A judgment entered by order of court for one party, although there has been a jury verdict against him.
NOTICE TO PRODUCE. In practice, a notice in writing requiring the opposite party to produce a certain described paper or document at the trial.

O.

OBJECTION. The act of taking exception to some statement or procedure in trial. Used to call the court's attention to improper procedure or evidence.
OF COUNSEL. A phrase commonly applied to counsel employed to assist in the preparation or management of the case, or its presentation on appeal, but who is not the principal attorney of record.
OPINION EVIDENCE. Evidence of what the witness thinks, believes, or infers in regard to fact in dispute as distinguished from his personal knowledge of the facts; not admissible except (under certain limitations) in the case of experts.
ORDINARY. A judicial officer in several of the states, clothed by statute with regard to wills, probate, administration, guardianship.
OUT OF COURT. One who has no legal status in court is said to be "out of court," i.e., he is not before the court. For example when a plaintiff, by some act of ommission or commission, shows that he is unable to maintain his action, he is frequently said to have put himself "out of court."
OVERRULE. To supersede; annul; make void; reject by subsequent action or decision. To refuse to sustain, or recognize as sufficient an objection made in the course of a trial, as to the introduction of particular evidence, etc.

P.

PANEL. A list of jurors to serve in a particular court, or for the trial of a particular action; denotes either the whole body of persons summoned as jurors for a particular term of court or those selected by the clerk by lot.

PAROLE. The conditional release from prison of a convict before the expiration of his sentence. If he observes the conditions, the parolee need not serve the remainder of his sentence.

PARTIES. The persons who are actively concerned in the prosecution or defense of a legal proceeding.

PEREMPTORY CHALLENGE. The challenge which the prosecution or defense may use to reject a certain number of prosecutive jurors without assigning any cause.

PLAINTIFF. A person who brings an action; the party who complains or sues in a personal action and is so named on the record.

PLAINTIFF IN ERROR. The party who obtains a writ or error to have a judgment or other proceeding at law reviewed by an appellate court.

PLEADING. The process by which the parties in a suit or action alternately present written statements of their contentions, each responsive to that which precedes, and each serving to narrow the field of controversy, until there evolves a single point, affirmed on one side and denied on the other, called the "issue" upon which they then go to trial.

POLLING THE JURY. A practice whereby the jurors are asked individually whether they assented, and still assent, to the verdict.

POWER OF ATTORNEY. An instrument authorizing another to act as one's agent or attorney.

PRAECIPE. An original writ commanding the defendant to do the thing required; also an order addressed to the clerk of the court, requesting him to issue a particular writ.

PREJUDICIAL ERROR. Synonymous with "reversible error;" an error which warrants the appellate court to reverse the judgment before it.

PRELIMINARY HEARING. Synonymous with "preliminary examination;" the hearing given a person charged with a crime by a magistrate or judge to determine whether he should be held for trial. Since the Constitution states that a man cannot be accussed in secret, a preliminary hearing is open to the public unless the defendant himself requests that it be closed. The accussed person must be present at this hearing and must be accompanied by his attorney.

PREPONDERANCE OF EVIDENCE. Greater weight of evidence, or evidence which is more credible and convincing to the mind, not necessarily the greater number of witnesses.

PRESENTMENT. An informal statement in writing by a grand jury to the court that a public offense has been committed, from their own knowledge or observation, without any bill of indictment laid before them.

PRESUMPTION OF FACT. An inference as to the truth or falsity of any proposition of fact, drawn by a process of reasoning in the absence of actual certainty of its truth or falsity, or until such certainty can be ascertained.

PRESUMPTION OF LAW. A rule of law that courts and judges shall draw a particular inference from a particular fact, or from particular evidence.

PRIMA FACIE EVIDENCE. Evidence good and sufficient on its face; such evidence as, in the judgment of the law, is sufficient to establish a given fact, or the group or chain of facts constituting the party's claim or defense, and which if not rebutted or contradicted, will remain sufficient.

PROBATE. The act or process of proving a will.

PROBATION. In modern criminal administration, allowing a person convicted of some minor offense (particularly juvenile) to go at large, under a suspension of sentence, during good behavior, and generally under supervision or guardianship of a probation officer.

PROSECUTOR. One who instigates the prosecution upon which an accused is arrested or one who brings an accusation against the party whom he suspects to be guilty; also one who takes charge of a case and performs the function of trial lawyer for the people.

PROSECUTRIX. A female prosecutor.

Q.

QUAERE. A query; question; doubt.

QUASH. To overthrow; vacate; to annul or void a summons or indictment.

QUASI JUDICIAL. Authority or discretion vested in an officer, wherein his acts partake of a judicial character.

QUOTIENT VERDICT. A money verdict determined by the following process: Each juror writes down the sum he wishes to award by the verdict. These amounts are added together, and the total is divided by twelve (number of jurors). The quotient stands as the verdict of the jury by their agreement.

QUO WARRANTO. A writ issuable by the state, through which it demands an individual to show by what right he exercises an authority which can only be exercised through grant or franchise emanating from the state.

R.

REASONABLE DOUBT. An accused person is entitled to acquittal if, in the minds of the jury, his quilt has not been proved beyond a "reasonable doubt;" the state of the minds of jurors in which they cannot say they feel an abiding conviction as to the truth of the charge.

REBUTTAL. The introduction of rebutting evidence; the showing that statements of witnesses as to what occurred is not true; the stage of a trial at which such evidence may be introduced.

REDIRECT EXAMINATION. Follows cross-examination and is exercised by the party who first examined the witness.

REFEREE. A person to whom a cause pending in a court is referred by the court to take testimony, hear the parties, and report thereon to the court. He is an officer exercising judicial powers and is an arm of the court for a specific purpose.

REMOVAL, ORDER OF. An order by a court directing the transfer of a cause to another court.

REPLY. When a case is tried or argued in court, the argument of the plaintiff in answer to that of the defendant. A pleading in response to an answer.

REST. A party is said to "rest" or "rest his case" when he has presented all the evidence he intends to offer.

R. Contd.

RETAINER. Act of the client in employing his attorney or counsel, and also denotes the fee which the client pays when he retains the attorney to act for him.

RULE OF THE COURT. An order made by a court having competent jurisdiction. Rules of the court are either general or special: the former are the regulations by which the practice of the court is governed; the later are special orders made in particular cases.

RULE NISI, OR RULE TO SHOW CAUSE. A court order obtained on motion by either party to show cause why the particular relief sought should not be granted.

S.

SEARCH AND SEIZURE, UNREASONABLE. In general, an examination without authority of law of one's premises or person with a view to discovering stolen contraband or illicit property or some evidence of guilt to be used in prosecuting a crime.

SEARCH WARRANT. An order in writing, issued by a justice or magistrate, in the name of the state, directing an officer to search a specified person, house or other premises for stolen property. Usually required as a condition precedent to a legal search and seizure.

SEPARATION OF WITNESSES. An order of the court requiring all witnesses to remain outside the courtroom until each is called to testify, except the plaintiff or defendant.

SHERIFF. An officer of the county, chosen by popular election, whose principal duties are aid of criminal and civil courts; chief preserver of the peace. He serves processes, summons juries, executes judgements and holds judicial sales.

SINE QUA NON. An indispensible requisite.

SLANDER. Base and defamatory spoken words tending to harm another's reputation, business or means of livelihood. Both "libel" and "slander" are methods of defamation-the former being expressed by print, writings, pictures or signs; the latter orally.

STARE DECISIS. The doctrine that, when a court has once laid down a principle of law as applicable to a certain set of facts, it will adhere to that principle and apply it to future cases where the facts are substantially the same.

STATE'S EVIDENCE. Testimony by an accomplice or participant in a crime, tending to convict others.

STATUTE. The written law in contradistinction to the unwritten law.

STAY. A stopping or arresting of a judicial proceeding by order of the court.

STIPULATION. An agreement by attorneys on opposite sides of a case as to any matter pertaining to the proceedings or trial. It is not binding unless assented to by the parties and most stipulations must be in writing.

STRIKING TESTIMONY. The order of the judge to remove certain evidence, statement or testimony from the record of the case. The jury will be told by the judge to disregard it, and the jury must then treat it as if it had never been given.

SUBPOENA. A process to cause a witness to appear and give testimony before a court or magistrate.

S. Contd.

SUBPOENA DUCES TECUM. A process by which the court commands a witness to produce certain documents or records in a trial.
SUMMONS. A writ directing the sheriff or other officer to notify the named person that an action has been commenced against him in court and that he is required to appear, on the day named, and answer the complaint in such action.
SUPERSEDEAS. A writ containing a command to stay proceedings at law, such as the enforcement of a judgment pending an appeal.
SUMMATION. (By the prosecution or defense) on the trial of an action by a jury, a recapitulation (to review and sum up) of the evidence adduced, in order to draw attention of the jury to the salient (standing out prominently) points. The counsel for each party has the right of summing up his evidence, if he has adduced (to bring forward or cite in proof or substantiation of what is alleged) any, and the judge sometimes sums up the whole in his charge to the jury.

T.

TALESMAN. A person summoned to act as a juror from among the bystanders in a court.
TESTIMONY. Evidence given by a competent witness, under oath; as distinguished from evidence derived from writings and other sources.
TRANSCRIPT. The official record of proceedings in a trial or hearing.
TRANSITORY. Actions are "transitory" when they might have taken place anywhere, and are "local" when they could occur only in some particular place.
TRAVERSE. In pleading, traverse signifies a denial. When a defendant denies any material allegation of fact in the plaintiff's declaration, he is said to traverse it.
TRIAL DE NOVO. A new trial or retrial held in a higher court in which the whole case is gone into as if no trial had been held in a lower court.
TRUE BILL. In criminal practice, the endorsement made by a grand jury upon a bill of indictment when they find sufficient evidence to warrant charge.

U.

UNDUE INFLUENCE. Whatever destroys free will and causes a person to do something he would not do if left to himself.
UNLAWFUL DETAINER. A detention of real estate without the consent of the owner or other person entitled to its possession.
USURY. The taking of more for the use of money than the law allows.

V.

VENIRE. Technically, a writ summoning persons to court to act as jurors; popularly used as meaning the body of names thus summoned.
VENIRE FACIAS DE NOVO. A fresh or new venire, which the court grants when there has been some impropriety or irregularity in returning the jury, or where the verdict is so imperfect or ambiguous that no judgment can be given upon it.

V. Contd.

VENIREMEN. Members of a panel of jurors.
VENUE. The particular county, city or geographical area in which the court with jurisdiction may hear and determine a case.
VERDICT. In practice, the formal and unanimous decision or finding made by a jury, reported to the court and accepted by it.
VOIE DIRE. To speak the truth; the phrase denotes the preliminary examination which the court may make of one presented as a witness or juror, as to his qualifications.

W.

WAIVER OF IMMUNITY. A means authorized by statutes by which a witness, in advance of giving testimony or producing evidence, may renounce the fundamental right guaranteed by the Constitution that no person shall be compelled to be a witness against himself.
WARRANT OF ARREST. A writ issued by a magistrate, justice, or other competent authority to a sheriff, or other officer, requiring him to arrest a person therein named and bring him before the magistrate or court to answer to a specified charge.
WEIGHT OF EVIDENCE. The balance or preponderance of evidence; the inclination of the greater amount of credible evidence, offered in a trial, to support one side of the issue rather than the other.
WITH PREJUDICE. The term, as applied to judgment of dismissal, is as conclusive of rights of parties as if action had been prosecuted to final adjudication adverse to the plaintiff.
WITHOUT PREJUDICE. A dismissal "without prejudice" allows a new suit to be brought on the same cause of action.
WITNESS. One who testifies to what he has seen, heard, or otherwise observed.
WRIT. An order issuing from a court of justice and requiring the performance of a specified act, or giving authority and commission to have it done.
WRIT OF CERTIORARI. A discretionary writ from a higher court to a lower court, or to a board or official with some judicial power, requesting the record for a case for review, an appellate proceeding for reexamination of action of an inferior tribunal.
WRIT OF ERROR CORAM NOBIS. A common-law writ, the purpose of which is to correct a judgment in the same court in which it was rendered, on the ground of error of fact.

JUVENILE LAW

Since the Supreme Court Gault Decision of 1967, the Juvenile Court has been required to make many procedural adjustments.

The Juvenile Court now gives Miranda warnings at intake interviews; and in the Courtroom conduct arraignments on judicial cases; try cases on contested calendars; have part-time advocates (prosecutors); court appointed counsel; give due legal notice of specific charges; and in general, engage in the same adversary procedures that exist in the adult courts.

The Juvenile Court Statute, Section 17-53 of the Connecticut General Statutes was revised and defines a "child" as any person under sixteen years of age. A child may be found "delinquent" if any of the following six general categories is applicable:

1. Has violated any federal or state law or municipal or local ordinance, or;
2. Who has without just cause run away from his parental home or other properly authorized and lawful place of abode, or;
3. Who is beyond the control of his parent, parents, guardian or other custodian, or;
4. Who has engaged in indecent or immoral conduct, or;
5. Who has been habitually truant or who while in school has been continuously and overtly defiant of school rules and regulations, or;
6. Who has violated any lawful order of the juvenile court.

On October 1, 1971, the Penal Code (Section 53a, Connecticut General Statutes) went into effect. Police officers should cite the offense,

by name and statute number on their referral reports, e.g., Threatening, Section 53a-62.

Also to be included in the referral report is the child's name, date of birth, address, names and addresses of parents or guardians, and a description of the offense charged, including the who, what, when, and where information.

The present statutory requirements for the investigation of, referring and presenting in the Juvenile Court, may be found in Section 17-66b, 17-66c, and 17-66d of the Connecticut General Statutes, 1971 Supplement.

Section 17-66b states:

> "At the commencement of any proceeding in the juvenile court on behalf of a delinquent child, the parent or parents, guardian and the child shall have the right to counsel and be so informed by the judge, and that if they are unable to afford counsel that counsel will be provided for them, and such counsel and such parent or parents, guardian, or child shall have the rights of confrontation and cross-examination."

Section 17-66c states:

> "In any proceedings in the juvenile court the judge before whom such proceeding is pending shall, even in the absence of a request to do so, provide an attorney to represent the child, his parent or parents, guardian or other person having control of the child, if such judge determines that the interests of justice so require."

Section 17-66d is entitled "Admissability of confession or other statement in juvenile court proceedings" and states:

> "Any admission, confession or statement, written or oral, shall be inadmissable in any proceeding for delinquency in the juvenile court against the person making such admission, confession or statement unless such person, and the parent or parents or guardian of such person if he is a child as defined in Section 17-53 shall have been advised of their rights to retain counsel and that if they are unable to afford counsel, to have counsel appointed to represent them, that they have a right to refuse to make any statements and that any statements they may make may be introduced in evidence against them, at the time of making such admission, confession or statement."

In substance it is necessary that the police afford the Juvenile the following safeguards:

1. Prior to any questioning of a juvenile by the police for any criminal offense, the parent or parents, guardian or other person having control of the child, should be located and be present before the questioning of the Juvenile begins.

2. Once the child and his parent or parents, guardian or other persons having control of the child are together, the child and his parent, parents, guardian or custodian must be advised of their constitutional rights, in that:

(a) He has an absolute right to remain silent and that anything he may say will be used in court against him.

(b) That he has the right to advice of a lawyer before and the presence of a lawyer during the questioning and that:

(c) If the juvenile cannot afford a lawyer, one will be appointed for him free before any questioning if he desires.

(d) The juvenile also must understand that if at anytime during the questioning he desires the questioning to cease, the questioning must cease.

In essence both the Juvenile and his parent or parents, guardian or other persons having control of the child must waive their rights if any statement, written or oral, is to be used against the juvenile in Juvenile Court.

In summary: The juvenile has the same constitutional safeguards as an adult in any criminal offense. In addition, by the State Statutes, the parent, parents, guardian or other persons having control of the child, shall be present during the questioning of a Juvenile and they too are afforded the same constitutional safeguards.

Attached is a copy of Your Rights and also the Waiver of Rights.

Before we ask you any questions, you must understand your rights:

- You have the right to remain silent.
- Anything you say can and will be used against you in court.
- You have a right to talk to a lawyer, for advice, before we ask you any questions and to have him with you during the questioning.
- If you cannot afford a lawyer, one will be appointed for you before any questioning, if you wish.
- If you decide to answer questions now, you still have the right to stop answering questions at any time you desire.

WAIVER OF RIGHTS

I have read this statement of my rights (or it has been read to me) and I understand what my rights are: I am willing to make a statement and answer questions. I do not want a lawyer at this time. I understand and know what I am doing. No promises or threats have been made to me and no pressure or coercion of any kind has been used against me. I, the parent - guardian - of the minor child have read the above warning (or it has been read to me). I agree to allow said child to waive his rights and the police officer may question the minor child. We do not wish an attorney.

Signed_____
(minor)

Witnessed_____

Signed_____
(parent/guardian)

JUVENILE OFFENDERS

In addition to providing the facilities required in the case of adult arrest (Miranda warnings, use of telephone, etc.), certain additional protective procedures must be employed in making juvenile arrests.

Upon the arrest of a person under sixteen years of age, the arresting officer should immediately notify the probation officer of the Juvenile Court. Additionally, the officer should immediately contact the parents and/or guardian of the child. If the officer is unable to locate the parents and/or guardian, the police records should fully record and detail the efforts that were made in attempting to locate these persons.

If practical, the arrested juvenile should be promptly turned over to an officer of the Juvenile Court. Section 17-65, General Statutes If circumstances render that impractical, the juvenile must be cared for in the manner provided for by Section 17-63, General Statutes, which states:

> "...Such child may, by the judge, be admitted to bail, pending final disposition, or may be released in the custody of the probation officer, his parent or some other suitable person. When not so released, the child may be detained pending the hearing and disposition of the case under and by such order of commitment as the court or judge thereof directs. In no case shall a child be confined in a community correctional center or lockup, or in any place where adults are or may be confined, except in the case of a mother with a nursing infant; nor shall any child at any time be held in solitary confinement. When a girl is held in custody, she shall, as far as possible, be in charge of a

woman attendant."

In most cases, the child will be released on the written promise of the parents and/or guardian to be responsible for the child's presence in court, or in the custody of the probation officer. It is important that the parents and/or guardian clearly understand the time and place the juvenile is to appear in court.

The rules governing the questioning of children are, as a matter of constitutional law, the same as those governing the questioning of adults. Thus, as with adults, full Miranda warning should be given to both the child and the parent and/or guardian before beginning any questioning. If the statement of a juvenile is to be admitted in evidence, complete Miranda warnings must be given to both the child and his parent, parents, guardian, or other person having control of the child in every type of case. In Re Gault, 387 U.S. 1 (1967); Section 17-66d, General Statutes. The Supreme Court in the Gault case explicitly declared that the Fifth Amendment privilege against self-incrimination applied to juvenile offenders. Obviously, the courts will examine very closely any statement taken from a juvenile to determine that the rights' warnings were properly given to all persons and that an intelligent and voluntary waiver of those rights preceded any questioning by the police. In this regard, the age of the child will be given serious consideration on the question of a voluntary waiver.

I. YOUTHFUL OFFENDER

A. Definition (54-76b)

1. Youth

a. Reached 16th birthday but not 18th

2. Youthful Offender

a. Committed a crime

(1) not a Class A felony

b. Not previously a youthful offender

c. Not previously convicted of a felony

B. Motion for Eligibility (54-76c)

1. Upon information of crime

2. Upon appearance that accused is a youth

3. Upon a motion

a. By defendant

b. By defense counsel

c. By prosecuting attorney

d. By state's attorney

e. By court's own motion

4. Court shall order information sealed

a. Only as to public

C. Determination (54-76d)

1. Investigation shall be made by adult probation officer

a. If court grants or makes such motion

(1) if defendant consents to

(a) mental or physical examination, if necessary

(b) questioning and investigation

(c) trial without jury

2. Court shall determine eligibility

a. Based on

(1) severity of crime

(2) results of investigation

3. Upon determination as eligible

a. Plea on sub charge of "Youthful Offender"

(1) no further action on original information

(a) original change erased

4. Upon determination as ineligible

a. Information is unsealed

(1) court proceeds as though motion had not been made

D. Trial to Determine Status (54-76e)

1. Court trial on not guilty plea

E. Statements of Defendant in Admission (54-76f)

1. Taken in investigation of 54-76d

a. Except for sentencing of youthful offender

b. Except for sentencing on original information

c. Except for sentencing on subsequent crimes

F. Judgement of Youthful Offender Status

1. Upon finding and/or plea of guilty

2. Original information considered as nullity (1)

a. All papers show charge of youthful offender

G. Proceedings Private. Segregation of Defendant in Place of Detention (54-76h)

1. Proceedings private

a. Apart from adult trials

(1) Black's Law Dictionary

2. Segregation of detention

a. Before sentencing

(1) away from those over 18 yrs. of age. (Prior only to sentencing)

H. Court Powers over Defendant (54-76i)

1. Identical to adult (Prior to finding)

I. Penalties on Adjudication. Probation. Narcotic Users. Commitment (54-76j)

1. Penalties

a. Court may

(1) commit

(2) fine N.M.T. $1000.00

(3) suspend sentence

(4) impose sentence, suspend execution

(5) probation on suspended sentence of suspended execution

(a) not more than 3 yrs.

(b) may be extended to 5 yrs. interim

(2)

b. If believed to be Narc user

(1) if probation

(a) may order tests (any tests at any facility)

(b) fail to appear for tests or determination of narc user is violator on probation

c. If committed

(1) not more than 3 yrs.

(2) Any religious, charitable or correctional institution for persons over 16 yrs. of age.

(a) If not state or state controlled, and if religion or persuasion are different from Y.O.'s, court must file statement of reason.

(2)

J. Determination of Youthful Offender Status not to Disqualify for Office, License, etc. (54-76k)

1. No disqualification of any right or privilege

2. No determination as criminal

K. Record Confidential (54-761)

1. Shall not be open to inspection

2. Fingerprints, photographs, physical description to C.S.B.I.

a. shall be held in confidential file

3. May be opened to inspection by court

4. All records available for inspection by any institution to which youthful offender is admitted.

L. Age of Defendant at time of Crime Controlling (54-76m)

1. Age at time of commission of act determines eligibility

M. Application of Criminal Law (54-76n)

1. Titles 53, 53a, 54, as amended, including Right to Appeal, applicable

HISTORY AND DEVELOPMENT OF CONNECTICUT COURTS

Prepared by: B. James Kazaleh
Instructor: Judicial Section
Agency: Municipal Police Training Council
Date: May 1, 1974

I. History of judicial system in Connecticut: Three main periods of development

A. The Colonial Period

1. General Court of Connecticut created in 1636

a. Under authority of general court of Massachusetts

b. Exercised legislative, executive, and judicial functions

c. By virtue of Charter of 1662 the General Court became known as the General Assembly

d. Retained judicial powers for approximately one and one-half centuries

e. In first few years of existence it vested judicial powers in lower tribunals

2. Town courts established in 1639

a. Originally consisted of three, five, or seven men, who were called "principal men" or "town men"

b. Later became known as "selectmen"

c. Jurisdiction of town courts was limited

(1) Confined to claims of debt and trespass

(2) Sessions held once in two months

(3) Decisions could be appealed

3. General court made provisions for the particular court in 1638

a. Brought into existence for specific purpose of trying two persons for misdemeanor

b. In 1642 it was required to meet regularly every three months

c. At a meeting in 1647 it was established that court should consist of

(1) the governor, deputy governor, and two magistrates

d. Court had civil and criminal jurisdiction

e. Exercised power of probate court in administering wills and estates of deceased persons

f. Served as a court of appeals for inferior tribunals

(1) Namely, for town courts and its own decisions could be appealed to the general court

(2) It is important to note that grand juries and trial juries came into use in proceedings before the Particular Court

(a) Grand juries and trial juries which are an integral part of judicial administration today made appearance in colonial Connecticut as early as the seventeenth century.

g. Particular Courts abolished; two new levels of courts came into existence

(1) Court of Assistants in 1665

(2) County Courts in 1666

4. County Courts

a. Had power to try cases "real," "personal," or "mixed"

b. Exercised power of a probate court and had criminal jurisdiction in cases "not extending to life, limb, or banishment, adulter, or divorce"

5. Court of Assistants

a. Composed of majority of "assistants," who were the successors of "magistrates" of the old General Court

b. Served as an appellate court, but also exercised original jurisdiction in criminal cases extending to "life, limb and banishment"

6. Following hierarchy of courts was in existence in colonial Connecticut at end of seventeeth century

a. Town Courts

b. County Courts

Appeals Process

c. Court of Assistants

d. General Assembly

7. In 1711 Courts of Assistants abolished

a. Powers with regard to original and appellate jurisdiction were assumed by newly created Superior Court

8. Superior Court

   a. One chief and four other judges

   b. Governor or Deputy Governor served as Chief Judge

   c. Other judges were selected from Council (the upper house of the general assembly)

   d. In view of changes in the structure of the courts, judicial hierarchy at the end of the colonial period presented following picture

      (1) Justices of the Peace

      (2) Probate Courts

      (3) County Courts

      (4) Superior Courts

      (5) The General Assembly (which still served as highest tribunal)

9. Prosecuting Attorneys

   a. In 1704 General Assembly ordered one prosecuting attorney appointed to every country on permanent basis

   b. Office of state's attorney was created (originally called King's Attorney)

   c. In 1711 provision was made for a clerk

10. Constables and Sheriffs began to serve in official capacity as early as middle of seventeenth century

   a. Duties corresponding to services of a sheriff were performed between 1650 - 1687 by officials known as marshals

   b. Statute in 1698 provided that officials formerly known as marshals shall be designated sheriffs

   c. In 1770 an act of general assembly required parties who submitted disputes for adjudication by the general assembly to prepare written pleas and exhibits

      (1) They were referred to committees of the general assembly to find and report facts in such disputes

B. Period between Revolutionary War and adoption of Constitution in 1818

1. Primary importance of post-Revolutionary War period for evolution of Connecticut court system can be found in attempts to divest general assembly of its judicial functions to establish a judiciary independent of the legislature

2. Creation of Supreme Court of Errors in 1784

a. Highest appellate tribunal

b. Prior to 1784 General Assembly had power to review cases from lower courts by means of writ of error

3. Independent judiciary achieved upon adoption of the Constitution of 1818

a. Contained following provisions in Article Fifth, Section one

"The judicial power of the state shall be vested in a Supreme Court of Errors, a Superior Court, and such inferior courts as the General Assembly shall, from time to time, ordain and establish; the powers and jurisdictions of which courts shall be defined by law"

b. In 1784 some city courts came into existence

(1) Originally consisted of the mayor and two senior aldermen

(2) They could assume jurisdiction in civil cases which were in judicial power of county courts

(3) If cause of action arose in the city or if parties to dispute were residents of the city

c. In 1789 Epharaim Kirby of Litchfield published first volume of reports of cases decided in Connecticut

(1) First publication of its kind in the United States

d. In 1814 a state official appointed by judges had duty to publish what became known as the Connecticut Reports

C. Period from adoption of the Constitution of 1818 to present time

1. In 1855 county courts created in 1666 were abolished and their functions were transferred to the Superior Court

2. To alleviate the work of Superior Court the General Assembly established Court of Common Pleas

a. In 1869 in Hartford and New Haven counties

b. In 1870 in New London and Fairfield counties

c. In 1883 in Litchfield county

3. In 1941 one Court of Common Pleas was established for the entire state

   a. With sessions in each of the counties of the state and judicial district of Waterbury

4. Special offices and positions created

   a. Position of Commissioner of Superior Court created in 1855

   b. Among other duties, they were authorized to sign writs and subpoenas and administer oaths

5. Office of Messenger of Superior Court, Court of Common Pleas and former district courts was created in 1878

6. Office of coroner was not formally established until 1883

   a. Coroner was authorized to appoint a medical examiner for each town

   b. An act of 1884 directed judges of Superior Court to appoint biennially one skillful stenographer for each county (known as official stenographer of the court

   c. In 1889 an act was passed providing for appointment of a state referee

7. Office of Attorney General established in 1897

   a. His responsibility extended to the supervision of all legal matters in which the state is an interested party; excluding those over which prosecuting attorneys have control

   b. Prior to 1897 counsels for state were appointed by general assembly when requested for specific purposes

8. In 1921 the Juvenile Court was established

   a. Arrangement was modified by the establishment of the present Juvenile Court on a statewide basis in 1941

9. In 1931 the trial justice system was enacted

   a. Limited criminal jurisdiction which formerly had been within the power of all justices of the peace; was vested in justices of the peace specially designated as trial justices

10. In 1959 the General Assembly established a new Circuit Court

    a. Court assumed judicial powers formerly held by justices of the peace, trial justices, borough, city, town, and police court judges, the Traffic Court of Danbury

11. REORGANIZATION OF THE JUDICIAL SYSTEM IN CONNECTICUT

    a. G.S.A. 51-1 repealed and substituted by P.A. 74-183 in the February Session of the General Assembly

    b. Circuit Court was replaced by the Court of Common Pleas

12. G.S.A. 51-1 repealed (1976 P.A. 76-436,9, eff. July 1, 1978

    a. Composition of Judicial Department; transfer of Trial Jurisdiction, 51-1a

    b. The judicial department of the state consisting of the Supreme Court, the Superior Court, and the Courts of Probate

    c. Jurisdiction 54-17

        (1) In any prosecution for the violation of any provision of any charter, ordinance or bylaw of a city or borough, the defendant shall have the right of appeal as in other cases

STATE OF CONNECTICUT

Municipal Police Departments

Statutory Authority and Jurisdiction

The various units of local government which exist in the State of Connecticut include 169 towns, 3 unconsolidated cities, and 11 boroughs. Police services are provided to the citizens of these 183 municipalities in one of the following ways:

1. By full time organized police departments (e.g. Waterford, New London).
2. By full time paid police officers under the direction of a resident state trooper (e.g. East Lyme, Montville, Ledyard).
3. By a resident state trooper (e.g. Preston, North Stonington).
4. By a local state police barracks (e.g. Killingly, Voluntown).

Municipalities receive their statutory authority to provide such police services in the Connecticut General Statutes Section 7-194. This statute empowers municipalities, among other things, to:

-Provide for policing of their respective town, city, or borough.

-Prescribe the duties of the police force.

-Perserve the public peace and good order.

-Make and enforce police regulations.

-Prevent trespass on public and private land.

-Secure the safety of persons passing through or in the town.

-Define, prohibit, and abate all nuisances and causes thereof, and all things detrimental to safety and morals.

-Prevent vice.

While generally exercised within the boundries of the community, municipal police powers to enforce state laws and local ordinances are not limited in jurisdictional scope to their respective municipalities. By virtue of Connecticut General Statute Section 7-281 an officer may execute an arrest warrant anywhere in the State for an offense committed in his municipality, and, pursuant to CGS Section 6-49 an officer may also make an arrest outside his municipality, without a warrant, when in "fresh pursuit" of a fleeing offender.

Municipal police departments maintain original jurisdiction in approximately 100 Connecticut municipalities; the State Police Department exercises original jurisdiction in the remaining 83 communities.

CONNECTICUT STATE POLICE

Statutory Authority and Jurisdiction

The Connecticut State Police Department was established by an act of the General Assembly in 1903 making it the first permanent state police force in the Country. The Department was initially made up of five full time officers, and was expected to assist whenever requested by the Governor, the Attorney General, a State's Attorney, or other legally appointed prosecuting officers in the investigation, detection, and prosecution of all criminal matters. The force was principally organized for the suppression of commercialized vice, with particular reference to the enforcement of the State's liquor and gambling laws, and, for the investigation of fires of suspicious origin.

Today, the State Police Department gets its statutory authority from Title 29, Sections 29-1 - 29-143 of the Connecticut General Statutes. As stated in Section 29-7,

> The State Police Department, upon its initiation, or when requested by any person, shall, whenever practical, assist or assume the investigation, detection, and prosecution of any criminal matter or alleged violation of the law. All State Policemen shall have, in any part of the State, the same powers with respect to criminal matters and the enforcement of the law relating thereto as sheriffs, policemen, or constables have in their respective jurisdictions.

Thus, the State Police Department is generally responsible for the enforcement of law and order, safety, and protection of the people and property through the State. The Connecticut State Police has either sole or some type of mutual responsibility for 80 municipalities in the State, the remaining 103 having organized police departments of their own.

In addition to general law enforcement activities, the State Police Department is assigned statutory responsibility for a great number of "regulatory" activities such as issuing pistol permits, establishing a fire safety code, licensing certain moving picture operations. It also has a number of "inspectional" duties such as the inspection of vehicles transporting flammable liquids and the investigation of the origin of fires.

Finally, the Connecticut State Police are concerned with such matters as organized crime, intelligence work, and, the surviellance and control of criminal elements within the State.

STATE OF CONNECTICUT

DEPARTMENT OF CORRECTION

History, Authority, and Jurisdiction

Prior to October 1, 1960, jails in Connecticut were operated by County Government. On October 1, 1960, County Government in Connecticut was abolished and the nine jails previously operated by the counties came under the control of the newly established State Jail Administration. In 1966, the American Foundation Institute of Corrections was asked to prepare a study of the correction institutions and services of Connecticut. The report, released in November of 1966, made five major recommendations. These recommendations included the creation of a state department of correction, the abolition of all jails in Connecticut with the exception of New London and Bridgeport, the establishment of in-service training programs, the establishment of a department of correction, and the establishment of a state central board of parole. In 1967, the State Legislature created the current State Department of Correction, which contained most of the elements of the American Foundations's report.

The goals of the Department of Correction are: 1) the creation of a centralized authority and resource base for the overall direction of a comprehensive corrections program; 2) the creation of rational, safe custody programs which serve both to protect the public and the inmate and staff populations; 3) the planning and implementation of a statewide building program which would replace deteriorating outmoded facilities, and simultaneously establish a new community based approach to pre-release preparation of inmates; 4) the organization of a set of carefully structured community release options (work release, study release, and furloughs) that

enable the smooth transition of prisoners to release status; 5) the establishment of a private contracted service delivery system consisting of half-way houses, group homes, employment and counselling services. This is designed to augment parole services and encourage a private sector criminal justice constituency; 6) the development of comprehensive institutional offender programs which include educational and vocational remedial opportunities, drug abuse and alcoholism treatments, and, mental and physical health programs aimed at overcoming specific disabilities; 7) the development of comprehensive programs which upgrade staff capabilities to work effectively in increasingly complex correctional systems; 8) the reduction of the overall number of offenders from whom institutional confinement is the only option, with particular attention on pre-trial detainees, youthful offenders, women, and parolees in temporary crisis situations; 9) the modernization of departmental records and information systems, including program research and evaluation, which will enable more rational and intelligent approaches to administrative planning; 10) the reduction of recidivism both in the overall rate of renewed criminal activities and in the seriousness of recidivating acts; 11) the development of an increasingly effective and efficient utilization of state funds and human resources for operations consistent with the Department's mission; 12) the de-fusing of institutional tension through the provision of in-house and external independent machinery for the resolution of individual inmate grievances; 13) the reformation of industrial work programs to increase economic incentives to expand market development, and to teach the work ethics of the external community; 14) the creation of an internal capability to plan realistically and rationally for the future correctional activity; 15) the provision through underlying personnel policies of a broad staff representation from the total Connecticut community, including the employment of minorities and women.

Under the current structure, the commitment of all prisoners is made by the Courts to the Commissioner of the Department of Correction. The Commissioner has the authority to assign prisoners to any institution within his jurisdiction. He may also transfer inmates with the concurrence of the Superintendent of the receiving institution from one facility to another.

The Department of Correction is overseen by a seven member policy making body called the Council of Correction. The Commissioner of Correction is the Chief Executive Officer of the Department, and is appointed by the Governor upon consultation with the Council of Correction. He is usually an experienced administrator and his duties include the administration, coordination, and control of the operations of the Department. He is also responsible for the overall supervision and direction of all institutions, facilities, and authority of the Department.

Board of Parole

The Connecticut Board of Parole is an autonomous agency, although its budgetary and personnel services are provided by the Department of Correction. The Board consists of eleven members, including a Chairman, and all members must be qualified by training and experience for the parole decision process. The Chairman and all other members are appointed by the Governor with the advice and consent of the Legislature. The Chairman is required to give full time to the performance of his duties while other members of the Board serve on a part-time basis. The responsibilities of the Board of Parole include conducting parole and parole revocation hearings, granting or denying parole, establishing any special provision of parole, declaring parolees to be in violation of parole, revoking parolees, reparolling parole violators, and granting discharge from parole.

LAW ENFORCEMENT ASSIGNMENT #1

Attitude Survey

INSTRUCTIONS FOR THE ADMINISTRATION

OF THE ATTITUDE SURVEY

Part One

Please fill out the following information sheet as completely and accurately as you can. Most of the questions can be answered yes or no. DO NOT PUT YOUR NAME ON THE PAPER. The information will be treated confidentially and no attempt will be made to find out the names of individuals filling out this paper. If you do not wish to answer a specific question, write in "no answer." This information is being compiled for research in the area of current juvenile attitudes and law enforcement communications theories. Your assistance is greatly appreciated.

PART ONE

1. What is your present age? _____ Sex? M F Grade? _____
2. Have you ever received a traffic citation? _____ How many? _____
3. Have you ever felt the officer was wrong in giving you a citation? _____
4. Have you ever contested a citation in court? _____

   If yes, what were the results? _____

   _____
5. Have you ever been stopped and questioned by an officer regarding a possible crime? _____
6. What are your constitutional rights? _____

   _____

   _____

   _____

   _____

   _____

   _____
7. Have you ever been arrested? _____
8. Have you ever been or are you now on probation? _____
9. Have you ever been arrested for something you didn't do? _____
10. Have you ever been convicted of something you didn't do? _____
11. Have you ever been placed in juvenile hall? _____
12. Do you feel that policemen "pick" on juveniles in general? _____

13. Do you feel that policemen look for people with long hair to harass? _____

14. Do you feel that policemen in Connecticut are underpaid? _____

15. Do you feel that policemen in Connecticut are well educated? _____

16. Are you planning on entering college? _____

17. Would you be interested in taking police science courses in college? _____

18. Would you ever want to become a policeman, deputy sheriff, or any other type of law enforcement officer? _____

19. Has either of your parents been divorced, widowed or separated? _____

20. Has a police officer ever violated your constitutional rights? _____

_____

_____

21. Does a citizen have any legal recourse to get laws changed without rioting? _____

22. Do you think that knowledge of the laws of the land and the functions of the judicial process should be taught in the schools? _____

By whom? _____

23. Do you feel that laws are enforced too rigidly? _____

24. Should Marijuana be legalized? _____

25. What is a felony? _____

26. What is a misdemeanor? _____

27. Should high school students be permitted to dress in any manner they please, to wear their hair the way they want, etc.? _____

Reservations? _____

28. Please place these careers in order. List the most prestigious first; and the least prestigious last: Engineer, Jazz Musician, Salesman, Clergy, Truck Driver, Physician, Police Officer, School Teacher, Electronics Technician, Military Officer.

1. _____ 6. _____

2. _____ 7. _____

3. _____ 8. _____

4. _____ 9. _____

5. _____ 10. _____